

**THOROUGHBRED HORSE RACING  
JOCKEYS AND WORKERS:  
EXAMINING ON-TRACK INJURY  
INSURANCE AND OTHER HEALTH  
AND WELFARE ISSUES**

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT AND  
INVESTIGATIONS  
OF THE  
COMMITTEE ON ENERGY AND  
COMMERCE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

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# **THOROUGHBRED HORSE RACING JOCKEYS AND WORKERS: EXAMINING ON-TRACK INJURY INSURANCE AND OTHER HEALTH AND WELFARE ISSUES**

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**TUESDAY, MAY 9, 2006**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:02 p.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman] presiding.

Present: Representatives Whitfield, Burgess, Stupak, and Barton (ex officio).

Staff Present: Mark Paoletta, Chief Counsel for Oversight and Investigations; Alan Slobodin, Deputy Chief Counsel for Oversight and Investigations; Tom Feddo, Counsel; Clayton Matheson, Analyst; Michael Abraham, Legislative Clerk; David Nelson, Minority Investigator/Economist; and Elizabeth Ertel, Minority Senior Staff Assistant.

MR. WHITFIELD. I would like to call this hearing to order. Today's subject will be thoroughbred horseracing, jockeys and workers, examining ontrack injury insurance and other health and welfare issues. As you know, we have had one full-scale hearing on this already and a number of developments have occurred since that first hearing so we are going to proceed into and explore some of those areas today.

Horseracing certainly has a significant impact on interstate commerce. By way of example, this hearing is being held just 3 days after the Kentucky Derby, one of the most famous and prestigious races in the sport, on which nearly \$119 million was legally wagered on that race alone. Horseracing's impact on our sports culture and economy reinforces our motivation to remain apprised of issues or problems in the industry.

Horseracing remains a dangerous sport. Indeed, one of our witnesses today, jockey John Velazquez, who is the Guild's current Chairman of the Board and one of the Nation's finest jockeys, was injured on April 20<sup>th</sup> when a horse he was riding collapsed at the finish line at Keeneland. The horse fell on Mr. Velazquez, breaking his shoulder

blade and several ribs and forcing him to miss the Kentucky Derby. We are grateful for his attendance today and certainly want to wish him a speedy recovery.

Since our last hearing, there have been some noteworthy developments over the past few months about which we will hear testimony today. Within 1 month of our hearing, the Guild's Board of Directors fired Dr. Gertmenian, the Guild's Chief Executive Officer, and his staff, including Albert Fiss, Lloyd Ownbey, Lisa Haley, and others.

Unfortunately, Dr. Gertmenian and his company's questionable actions continued to the very last moment when his Chief Financial Officer wrote checks totaling over \$200,000 from the Guild's accounts to himself, Dr. Gertmenian, and Mr. Fiss.

Earlier this year, the Guild held its first annual assembly following Dr. Gertmenian's ousting and has begun to revise its bylaws and repair its broken finances. It is my understanding that civil suits involving jockey Gary Birzer, the Guild, Dr. Gertmenian, and Mr. Fiss, among others, have been filed in the Federal courts.

In the meantime, according to press reports, Dr. Gertmenian has come under investigation by the FBI and local police in Los Angeles, apparently for his suspect activities while heading the Guild. Unfortunately, it looks like Pepperdyne University still has him listed on its website as being the head of the Jockeys' Guild.

The Guild's new leadership is here today to tell us about what Dr. Gertmenian left in his wake, the changes they have implemented to their organization, their efforts to find a long-term managers and the efforts they have undertaken to ensure that the Guild survives and its permanently disabled members are not left helpless and unsupported.

There are still only four States that provide workers compensation programs for jockeys and exercise riders. My home State of Kentucky almost passed a bill creating a workers comp program for jockeys racing there but ran into last minute problems, and it was not adopted.

I personally believe that we need a Federal solution in this area, and I believe that we can do so, and once the details of what we are proposing get out, I honestly believe that there will not be a lot of opposition to this.

Since our hearings, however, many race tracks of their own accord have raised their ontrack catastrophic insurance coverage to \$500,000 or a million dollars. We are encouraged by this development, and I gather that jockeys and exercise riders are also.

On the matter of ontrack insurance purchased by race tracks, we have subpoenaed Ms. Rose Mary Williams who is the Director of Racing at Mountaineer Race Track and Gaming Resort to testify today. Ms. Williams voluntarily testified on November the 17<sup>th</sup> at our hearing during that time, and then after the hearing, Mr. Stupak, our Ranking

Member, wrote supplemental written questions directed to Ms. Williams and Mountaineer, and following her written answers, committee staff requested to interview Ms. Williams and discuss discrepancies between her oral testimony and written statements. Ms. Williams through her legal counsel declined to be interviewed by the committee staff. Accordingly, the full committee Chairman authorized a subpoena for her testimony today so that we can hopefully obtain answers to the questions that we wanted to ask.

This is an important subject matter. There is a lot of money involved. It is a dangerous sport, and there are a lot of injuries as a result of it. So I look forward to today's testimony, and I thank the witnesses for their attendance.

And I would like to at this time turn to our distinguished Ranking Member, Mr. Stupak, for the purposes of his opening statement.

[The prepared statement of the Hon. Ed Whitfield follows:]

PREPARED STATEMENT OF THE HON. ED WHITFIELD, CHAIRMAN, SUBCOMMITTEE ON  
OVERSIGHT AND INVESTIGATIONS

Good afternoon and welcome. Today, the Oversight and Investigations Subcommittee will revisit some of the serious issues we examined last year regarding the health and welfare of jockeys, exercise riders, and backstretch workers. These issues affect the professional sport of horse racing and the many individuals who work with the horses every day.

As I have emphasized before, horse racing has a very significant impact on interstate commerce. By way of example, this hearing is being held just three days after the Kentucky Derby, one of the most famous and prestigious races in the sport, on which nearly \$119 million was legally wagered. Horse racing's impact on our sports culture and economy only reinforces our motivation to remain apprised of issues or problems in the industry.

Horse racing remains just as dangerous today as we noted last fall when we conducted our hearings. Indeed, one of our witnesses, jockey John Velazquez, who is the Guild's current Chairman of the Board and one of the nation's finest jockeys, was injured on April 20<sup>th</sup> when the horse he was riding collapsed at the finish line. The horse fell on Mr. Velazquez, breaking his shoulder blade and several ribs, and forcing him to miss the Kentucky Derby. I am grateful for your attendance today, Mr. Velazquez, and am relieved that your injuries were not more severe.

Since our last hearing there have been some noteworthy developments in the past few months about which we will hear testimony today. Shortly after our October 2005 hearing, the Guild's members began to take back ownership of their organization. Within one month, the Guild's Board of Directors fired Dr. Gertmenian, the Guild's Chief Executive Officer, and his staff, including Albert Fiss, Lloyd Ownbey, Gevork Asatryan, and Lisa Haley. Unfortunately, Dr. Gertmenian's and his company's questionable actions continued to the very last moment – when his Chief Financial Officer, Mr. Asatryan, wrote checks totaling over \$200,000 from the Guild's accounts to himself, Dr. Gertmenian, and Mr. Fiss.

Earlier this year, the Guild held its first annual assembly following Dr. Gertmenian's ouster and has begun to revise its bylaws and repair its broken finances. It is my understanding that civil suits involving jockey Gary Birzer, the Guild, Dr. Gertmenian, and Mr. Fiss, among others, have been filed in the federal courts. In the meantime,

according to press reports, Dr. Gertmenian has come under investigation by the FBI and local police in Los Angeles, apparently for his suspect activities while heading the Guild.

The Guild's new leadership is here today to tell us about what Dr. Gertmenian left in his wake, the changes they have implemented to their organization, their efforts to find a long-term national manager, and the efforts they have undertaken to ensure that the Guild survives, and its permanently disabled members are not left helpless and unsupported. I look forward to hearing about the consortium that the Guild, many race tracks, and several racing organizations have created to raise money to benefit disabled riders.

There are still only four states that provide workers' compensation programs for jockeys or exercise riders. My home state of Kentucky almost passed a bill creating a workers' compensation program for jockeys racing there, but ran into some last minute problems. I hope that eventually the various racing interests in Kentucky will be able to reach a compromise and create a workers' compensation program for the riders. Since our hearings, however, many racetracks of their own accord have raised their on-track catastrophic insurance coverage to \$500,000 or \$1 million. We are encouraged by this development, and I gather that jockeys and exercise riders are also.

On the matter of on-track insurance purchased by the race tracks, we have subpoenaed Ms. Rose Mary Williams, the Director of Racing at Mountaineer Race Track and Gaming Resort, to testify today. Ms. Williams voluntarily testified at our November 17<sup>th</sup> hearing last year. Additionally, after the hearing Mr. Stupak wrote supplemental written questions directed to Ms. Williams and Mountaineer. Following Ms. Williams' written answers, Committee staff requested to interview Ms. Williams and discuss discrepancies between her oral testimony and written statement. Ms. Williams, through her legal counsel, declined to be interviewed by Committee staff. Accordingly, the Full Committee Chairman authorized a subpoena for her testimony today, so that we can hopefully get answers to the questions we wanted to ask.

I look forward to today's testimony and I thank the witnesses for their attendance.

I now turn to the distinguished Ranking Member, Mr. Stupak, for the purposes of an opening statement.

MR. STUPAK. Thank you, Mr. Chairman.

Last fall, this subcommittee held hearings into the state of the horse racing industry and the Jockeys' Guild. While those were productive hearings, there are still several issues that need to be addressed from our hearings last fall. On November 3<sup>rd</sup>, 2005, you and I, Mr. Chairman, requested that Secretary of Health and Human Services Leavitt conduct a study by NIOSHA of the safety conditions at horse racing tracks in the United States. Secretary Leavitt finally agreed to the study on January 25<sup>th</sup>, 2006.

However, it's now May 9<sup>th</sup>, some 6 months after we apprised the Secretary of the dire safety conditions in this industry, and we have no indication that any substantive work has been done.

On November 2<sup>nd</sup>, 2005, the Democratic members of this subcommittee asked the National Labor Relations Board to repeal their antiquated rule reviewing jurisdiction over an effort by jockeys or other racetrack employees to organize for collective bargaining purposes in this dangerous industry. Unfortunately, the NLRB has refused to change their rules. Therefore, my office has begun the process of having



legislation drafted to allow jockeys and riders to collectively bargain. I hope to introduce this bill in the coming weeks.

Our Government is not only failing in its duty to protect jockeys and exercise riders from the oppressive practices of the race tracks, it is actively preventing these workers from protecting themselves by permitting the race tracks to break up any attempts by the jockeys and riders to collectively improve their working conditions. We in this country outlawed such practices over 70 years ago for other American workers, and it is time to provide the same rights to jockeys and riders.

I do wish to join with you, Mr. Chairman, in sponsoring one of the solutions that falls squarely within our jurisdiction. Your idea to amend the Interstate Horseracing Act to include jockeys and exercise riders in the revenue sharing from simulcasting of horse races may be the quickest solution to solving the health insurance crisis documented in our hearings last fall. By including jockeys in the revenue sharing, ample financing will finally be made available for adequate ontrack and offtrack health insurance as well as a modest retirement fund for the human athletes that are the linchpins of this \$26 billion industry.

I found it interesting that during the Kentucky Derby last weekend Woodford Reserve Distillery was selling mint juleps with the proceedings going to what is essentially a retirement fund for horse races, I should say for race horses, yet there was no mention of any similar fundraising going on for the jockeys who risk their lives each day to earn millions of dollars for the owners and trainers of these horses. Unlike retired race horses, many of the jockeys have families to support.

Let me suggest that for the 2007 Kentucky Derby, it would be great to see a fundraiser with proceeds going to help defray costs for jockeys like Gary Birzer who are injured or paralyzed.

Mr. Chairman, another issue that needs to be followed up is the testimony of Ms. Rose Mary Williams, and I am pleased to see that she will be back before us again today. It is unfortunate, however, that her return is necessitated by the lack of candor in her testimony last fall.

On November 17<sup>th</sup>, 2005, Ms. Williams, director of racing at Mountaineer Race Track in West Virginia, had ample opportunity to reply to this committee's questions regarding Mountaineer's failure to provide adequate ontrack accidental medical insurance for its jockeys. You will recall that Mountaineer is where Gary Birzer had his accident that left him paralyzed for life.

Ms. Williams chose to lead this subcommittee to believe that she was unable to obtain a quote for a million dollar insurance policy. Twice she was questioned about it under oath, and twice she said that she could not obtain a quote for such a policy from her broker.

We have documents to show that Ms. Williams together with another Mountaineer employee, Ms. Sandra Brokaw, solicited such a quote from Johnson & Anton Insurance Brokerage on February 16<sup>th</sup>, 2005. Our documents show that they received an extensive quote back 2 days later, February 18<sup>th</sup>, 2005.

Mr. Chairman, I'm not sure whether Ms. Williams' testimony to this subcommittee requires a review by the Department of Justice. I am, however, certain that it was designed to deceive us. Mountaineer is one of the most prosperous race tracks in the country. Unfortunately, it also has a reputation of one of the worst employers in the industry when it comes to caring about jockeys that make their profits possible. Not only did Ms. Williams take no responsibility for the paralysis of Gary Birzer, she made no attempt to upgrade the woefully inadequate insurance that Mountaineer carried after this tragic spill.

When questioned about it last November, her testimony led us to believe that adequate insurance simply was not available. Now we find this is not true. I look forward to hearing her explanation today.

Mr. Chairman, my time is up, so I will yield back and look forward to this hearing.

[The prepared statement of the Hon. Bart Stupak follows:]

PREPARED STATEMENT OF THE HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF MICHIGAN

Thank you Mr. Chairman.

Last fall, this Subcommittee held hearings into the state of the horse racing industry and the Jockey's Guild. While those were productive hearings, there are still several issues that need to be addressed from our hearings last fall.

On November 3, 2005, you and I jointly requested that the Secretary of Health & Human Services, Mr. Leavitt, conduct a study by NIOSH of the safety conditions at horse racing tracks in the United States. Secretary Leavitt finally agreed to the study on January 25, 2006. However it is now May 9<sup>th</sup>, some 6 months after we apprised the Secretary of the dire safety conditions in this industry, and we have no indication that any substantive work has been done.

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Our government is not only failing in its duty to protect jockeys and exercise riders from the oppressive practices of the racetracks, it is actively preventing these workers from protecting themselves by permitting the race tracks to break up any attempts by the jockeys and riders to act collectively to improve their working conditions. We outlawed such practices over 70 years ago for other American workers, and it is time to provide the same rights to Jockeys and riders.

I do wish to join with you Mr. Chairman in sponsoring one of the solutions that falls squarely within our jurisdiction. Your idea to amend the Interstate Horseracing Act to

include jockeys and exercise riders in the revenue sharing from simulcasting of horse races, may well be the quickest solution to solving the health insurance crisis documented in our hearings last fall. By including Jockeys in the revenue sharing, ample financing will finally be made available for adequate on-track and off-track health insurance as well as a modest retirement fund for the human athletes that are linchpins of this \$26 billion industry.

I found it interesting that during the Kentucky Derby last weekend, Woodford Reserve Distillery was selling \$1,000 mint juleps with the proceeds going to what is essentially a retirement fund for the race horses. Yet there was no mention of any similar fund raising going on for the Jockeys who risk their lives each day to earn millions for the owners and trainers of these horses. Unlike retired race horses, many of the Jockeys have families to support. Let me suggest that for the 2007 Kentucky Derby it would be great to see a fund raiser with proceeds going to help defray costs for Jockeys like Gary Birzer who are injured or paralyzed!

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I look forward to her explanation. I yield back.

MR. WHITFIELD. Thank you very much, Mr. Stupak.

At this time I recognize the full committee Chairman, Mr. Barton of Texas, for the opening statement he may want.

CHAIRMAN BARTON. Thank you, Mr. Chairman. I submitted my written statement for the record. I appreciate you doing the hearing. I think we had a great, positive result Saturday at Churchill Downs; showed horseracing at its best, with the Kentucky Derby and all the panoply that goes with that and the excitement. Looking forward to the Triple Crown and hopefully this hearing will continue to shed light on

what the Jockeys' Guild is doing. It appears to me that they are moving in the right direction, and thanks to the leadership of you and Mr. Stupak, taking actions that should have been taken a long time ago, and hopefully on our second panel, we will get the witness who could have answered a few questions over the phone and been on and about her business. Her counsel seems to think that it is their job to obstruct justice and truth. We will get it one way or the other. We will get that done, and I applaud Mr. Stupak for insisting that we get to the bottom of the discrepancies in that area. So I look forward to the hearing and continuing the progress that we seem to be making in reforming the Jockeys' Guild. Thank you.

[The prepared statement of the Hon. Joe Barton follows:]

PREPARED STATEMENT OF THE HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY  
AND COMMERCE

Thank you, Chairman Whitfield, for holding this hearing and continuing your hard work on this issue.

Last year, the Subcommittee undertook a serious examination of on-track injury coverage for people who work in horseracing. We found out what every jockey and trainer already knows, that a billion-dollar sport can't seem to insure the people who do the work and risk their necks.

In October of last year, representatives of the Jockeys' Guild testified about the health and welfare issues faced by the sport's riders, and to explain why the Guild's leadership chose in 2002 not to renew its members' on-track accident insurance. For many years prior to that, the Guild had supplemented the on-track insurance provided by the race tracks to its members.

The incredible testimony during that hearing, particularly the tragic story of jockey Gary Birzer, made it clear to me that the Guild needed a house-cleaning. Mr. Chairman, the hearing you held in October plainly led the Guild's membership to the same conclusion. Within a month, the Guild had fired Dr. Gertmenian, his staff, and his company.

Then, last November, representatives from various racetracks, prominent horsemen's associations, and industry-related welfare groups, testified at a second hearing and answered our questions about the status of on-track insurance in the industry and about how to improve on-track injury insurance coverage for the industry's workers.

Today we will hear from the Guild's new management team, to update the Subcommittee on the progress the Guild has made in rescuing itself from financial ruin. Today's testimony will provide more details about how Dr. Gertmenian – a self-proclaimed master negotiator – left the Guild with its reputation in tatters and on the verge of financial collapse. I hope that the Guild is on course to regain its financial footing, and will find ways of improving on-track injury coverage for jockeys.

Finally, one of our witnesses, Ms. Williams, was subpoenaed to appear and testify today. I authorized the issuance of that subpoena. I didn't do so lightly, but while we are going to honor and protect people's rights against self-incrimination, this is not about invoking the 5<sup>th</sup> Amendment here today. This is about simple obstruction. Our members and our staff are going to get to the truth even when attorneys advise clients to obstruct an investigation. In this case, we had expected to get the information we sought with a simple interview, but our request was rejected. So instead of a simple interview, a witness has been subpoenaed to Washington to testify at a hearing. When the Committee staff requests an interview to clarify some important issues that arise during a hearing,

and is refused, we have no choice. When we need to do our job, I will use the Committee's power to secure the information and testimony.

Mr. Chairman, I look forward to today's testimony and yield back the remainder of my time.

MR. WHITFIELD. Thank you, Mr. Barton.

At this time, recognize the gentleman from Texas, Mr. Burgess.

MR. BURGESS. Thank you, Mr. Chairman. I'll submit my statement for the record so we can get right on to the witnesses.

MR. WHITFIELD. Thank you, Dr. Burgess.

**STATEMENTS OF DARRELL HAIRE, INTERIM NATIONAL MANAGER, THE JOCKEYS' GUILD, ACCOMPANIED BY LARRY SAUMELL, REGIONAL MANAGER; JOHN VELAZQUEZ, CHAIRMAN OF THE BOARD OF DIRECTORS, THE JOCKEYS' GUILD; AND BARRY BROAD, NATIONAL LEGAL COUNSEL, THE JOCKEYS' GUILD.**

MR. WHITFIELD. At this time, I would like to call the first panel. Mr. Darrell Haire, who is the Interim National Manager of the Jockeys' Guild. In addition, we have Mr. John Velazquez, who is a jockey but also Chairman of the Board of Directors of the Jockeys' Guild; Mr. Barry Broad, who's the National Legal Counsel for the Jockeys' Guild.

If you three gentlemen would come forward and take your seat at the podium. And then my understanding, Mr. Larry Saumell, who is the Regional Manager for the Jockeys' Guild, is also with us today.

So I want to thank you gentlemen for taking time from your busy schedules to be with us. Obviously, your testimony is quite important as we explore ways to address some safety issues but, more importantly, to look at ways to take care of insurance issues relating to jockeys.

As you know, this is an Oversight and Investigations hearing, and it is our policy to take testimony under oath. I would ask all four of you; do any of you have any difficulty testifying under oath or any objection to testifying under oath? Certainly, you are, under the rules of the House and of the committee, entitled to legal representation. Do any of you have legal representation with you today?

Okay. If you would stand and raise your right hand, I would like to swear you in.

[Witnesses sworn.]

MR. WHITFIELD. Thank you. You are now sworn in.

And, Mr. Haire, we'll call upon you to give us your 5 minute opening statement.

MR. HAIRE. Mr. Chairman.

MR. WHITFIELD. Be sure and turn your microphone on so we can hear you. Thank you.

MR. HAIRE. Mr. Chairman, if you don't mind, I'd like Johnny Velazquez, if he could, to go first.

MR. WHITFIELD. Okay. John Velazquez, as I told you, is Chairman of the Board of Directors, and we welcome you and recognize you for your 5 minute opening statement. Be sure to hit the button so your microphone is on so we can hear your testimony.

MR. VELAZQUEZ. It's on now, right. Okay.

Mr. Chairman and the committee, I thank you for having us and having this opportunity to speak in front of you and try to update you on the things happening in the last few months and the work that we have done.

My name is John Velazquez. I'm the Chairperson of the Board of Directors of the Jockeys' Guild, and I am pleased to testify before this committee and update you on the conditions of the Jockeys' Guild.

We have been working very hard since the removal of Mr. Gertmenian to restore a respectful relationship of mutual respect and understanding between the Guild and the horseracing industry. While we may not always agree on issues, it is critical that we work together for the good of the sport and the welfare of our members.

We have been meeting frequently in the last several months with the industry leaders to discuss how we can partner with them to ensure the needs of the jockeys are met. As you know, for the past 60 years the Jockeys' Guild has shouldered the burden of providing health insurance to its members, taking care of the temporarily disabled and trying to meet the needs of our permanently disabled riders who must be taken care of for the rest of their lives.

We have tried to show the industry that shouldering this responsibility alone is virtually impossible for an organization with thousands of members to afford from its own resources. This is made even more difficult because we must also represent our members on many other important issues the jockeys face daily as professional athletes.

Today I am pleased to report to you that we have reached a historic agreement with the industry to create a new jointly administrative program to fund our program for permanently disabled riders. This new group has pledged to raise at least \$1 million annually to provide financial assistance and case management services to the 61 jockeys that are currently permanently disabled and for those jockeys that will receive crippling injuries in the future.

We are grateful that the tracks and horsemen are willing to step up to the plate and accept that the care of those who have given everything to

the horseracing industry is the responsibility of the entire industry, not just the jockeys themselves. It means a lot to us that the industry has taken this step, and I wish to publicly thank them today for their effort.

Mr. Chairman, just a few weeks ago, I was injured in a race in Keeneland. The horse broke down, and I was thrown. The horse landed on top of me, and I broke my shoulder. I was very lucky, very lucky, and very blessed. I would say very blessed that I only sustained a broken shoulder blade. The fact of the matter is, every time you leave the paddock, you really don't know if you are coming back. It can happen to any of us on any racing day.

We need to know for the sake of ourselves and our families that if we are injured, we will receive the best medical care, and God forbid, if we suffer a devastating injury, we will be taken care of.

There is much work to be done to reach this goal. While many tracks have raised their coverage for ontrack accidents to a million, there are tracks around the country that have inadequate insurance coverage. Some tracks still provide no coverage at all. There is workers compensation coverage in only five racing States. Our members should be covered in all States. For many jockeys, health insurance is not affordable, given the low incomes. We need to raise mount fees so that all jockeys who want health coverage can afford it.

So, Mr. Chairman, we would like the industry to provide a retirement plan for its riders so that the jockeys who are too old or too sick to continue racing can live out their lives in dignity.

Finally, and perhaps the most important, it is critical that we have a real seat at the table in the industry. The Interstate Horseracing Act needs to be amended to give jockeys the legal rights along with the trainers and owners to a fair share of the revenue from the transmission of the horseracing signal. That way, Mr. Chairman, we will have the resources we need to help ourselves.

I am available to answer any questions you may have. Thank you.

[The prepared statement of John Velazquez follows:]

PREPARED STATEMENT OF JOHN VELAZQUEZ, CHAIRMAN OF THE BOARD OF DIRECTORS,  
THE JOCKEYS' GUILD

Mr. Chairman and Members of the Committee:

My name is John Velazquez and I am Chairperson of the Board of Directors of the Jockeys' Guild.

I am pleased to testify before this Committee and update you on the condition of the Jockeys' Guild.

We have been working very hard since the removal of Mr. Gertmenian to restore a respectful relationship of mutual respect and understanding between the Guild and the horseracing industry. While we may not always agree on issues, it is critical that we work together for the good of the sport and the welfare of our members.

We have been meeting frequently in the last several months with industry leaders to discuss how we can partner with them to insure that the needs of jockeys are met. As you know, for the past 60 years, the Jockeys' Guild has shouldered the burden of providing health insurance to its members, taking care of the temporarily disabled, and trying to meet the needs of our permanently disabled riders—who must be taken care of for the rest of their lives. We have tried to show the industry that shouldering this responsibility alone is virtually impossible for an organization with a thousand members to afford from its own resources. This is made even more difficult because we must also represent our members on many other important issues that jockeys face daily as professional athletes.

Today, I am pleased to report to you that we have reached an historic agreement with the industry to create a new jointly administered program to fund our program for permanently disabled riders. This new group has pledged to raise at least \$1 million annually to provide financial assistance and case management services to the 61 jockeys that are currently permanently disabled and for those jockeys that will receive crippling injuries in the future. We are grateful that the tracks and horsemen are willing to step up to the plate and accept that the care of those who have given everything to the horseracing industry is the responsibility of the entire industry, not just the jockeys themselves. It means a lot to us that the industry has taken this step, and I wish to publicly thank them today for their effort.

Mr. Chairman, just a few weeks ago, I was injured in a race at Keeneland. The horse broke down and I was thrown. The horse landed on top of me and broke my shoulder. I was lucky, very lucky that I only sustained a broken shoulder blade. The fact of the matter is that every time you leave that paddock, you really don't know if you're coming back. It can happen to any of us on any race day. We need to know, for the sake of ourselves and our families, and that if we are injured, we will receive the best medical care and—God forbid—if we suffer a devastating injury, we will be taken care of.

There is much work to be done to reach this goal. While many tracks have raised their coverage for on-track accidents to \$1 million, there are tracks around the country that have inadequate insurance coverage. Some tracks still provide no coverage at all. There is workers' compensation coverage in only 5 racing states. Our members should be covered in all states. For many jockeys, health insurance is not affordable given their low incomes. We need to raise mount fees so that all jockeys who want health coverage can afford it. And some day, Mr. Chairman, we would like the industry to provide a retirement plan for its riders so that the jockeys who are too old or too sick to continue racing can live out their lives in dignity.

Finally, and perhaps most importantly, it is critical that we have a real seat at the table in this industry. The Interstate Horseracing Act needs to be amended to give jockeys the legal right, along with trainers and owners, to a fair share of the revenue from the transmission of the horseracing signal. That way, Mr. Chairman, we will have the resources we need to help ourselves.

I am available to answer any questions you may have.

MR. WHITFIELD. Thank you, very much for your testimony, Mr. Velazquez. We appreciate it.

Mr. Haire, I will recognize you for your opening statement.

MR. HAIRE. Thank you, Mr. Chairman.

Mr. Chairman, and members of the committee, I am Darrell Haire, and I am the Interim National Manager of the Jockeys' Guild. I am very pleased to be back here testifying before you. When I was here last before the committee, the riders had just retaken control of our organization and we were trying to get on our feet. I am pleased to



report to you that we have restored order to the business of running the Guild. It hasn't been easy and big challenges remain. We have had to make some very tough decisions, but we are moving forward, and we are getting the job done.

On the day Wayne Gertmenian and the Matrix team was terminated, we were left with \$6,000 in the bank, nearly a half a million dollars in unpaid medical bills, disabled jockeys who needed to be paid, an accounting system that was in disarray, one employee, and a graduate student intern in the office. Within a few days, we realized that we would have to move our office to avoid the double rent we were paying to Matrix.

On that first day, Mr. Chairman, we decided that we would not declare bankruptcy, and we would do everything in our power to get the Guild back on its feet and moving forward again. Jockeys and their wives volunteered to work in our office, and we worked 7 days a week, 14 hours a day to get things moving again.

Immediately, and taking a significant leap of faith, the Chairperson of the California Horse Racing Board, Richard Shapiro, authorized the payment of hundreds of thousands of dollars of back health insurance funds that had been withheld while the CHRB investigated allegations of financial misconduct by Wayne Gertmenian. Shortly thereafter, led by Don Amos, Magna Entertainment Company, many race tracks began sending back media rights payments to the Jockeys' Guild. And our members, the backbone of our organization, stuck with us.

Our Board of Directors realized that in order to get our financial house in order, we needed to institute a series of painful fiscal reforms to cut costs. These included increasing the eligibility requirements of our temporary disability program to a minimum of 100 mounts in the current or previous calendar year; raising our dues by 25 percent, from \$3 per mount to \$4 per mount; creating a consistent policy in our permanent disability program so that all participants get the same benefits; requiring that all jockeys who are in arrears in health insurance premiums make arrangements to pay back their premiums or lose coverage. Unfortunately, we have recently terminated approximately 100 jockeys from the health plan after making every effort to get them to pay the large premiums they owe. And we have created a rules committee charged with ensuring that our members do not get behind in their health premium payments, and to take action if they do.

In addition to fiscal reforms, we have instituted a number of institutional reforms to make our organization more democratic and more accountable to its membership. At our recent national assembly in Dallas, Texas, we approved amendments to our bylaws that did the following: established a new system of national direct elections of the

Guild senate to be held next month in June and every 2 years thereafter. Active jockeys would run for office and represent three regions of the country; a western, central, and eastern region. There will be nine senators elected from each region. The 27 senators elected would then elect a new Board of Directors, and that would be a nine-member Board of Directors.

Finally, we have improved our previously nonexistent system of internal communications. We have a website that is regularly updated with current information to our members, and also we are informing our members by mail throughout the country, written in both English and Spanish, of policies and issues that arise.

We continue to represent our members vigorously at the race tracks, before the racing commissions around the country, and in front of State legislatures. While we are not out of the woods yet and are still operating on a day-to-day basis, we are making progress towards restoring the integrity and strength of this great organization.

Mr. Chairman, due to the determination of our members and help from our friends, including members of this committee, the Jockeys' Guild is moving again in the right direction. And I thank you again for the opportunity to be here.

[The prepared statement of Darrell Haire follows:]

PREPARED STATEMENT OF DARRELL HAIRE, INTERIM NATIONAL MANAGER, THE JOCKEYS' GUILD

Mr. Chairman and Members of the Committee:

I am Darrell Haire and I am the Interim National Manager of the Jockeys' Guild. I am very pleased to be back here testifying before you. When I was last before the Committee, we had just retaken control and were trying to get on our feet.

I am pleased to report to you that we have restored order to the business of running the Guild. It hasn't been easy and big challenges remain. We have had to make some very tough decisions, but we are moving forward and getting the job done.

On the day Mr. Gertmenian and the Matrix team was terminated, we were left with \$6,000 in the Bank, nearly a half a million dollars in unpaid medical bills, disabled jockeys who needed to be paid, an accounting system that was in disarray, and one employee and a graduate student intern in the office. And within a few days, we realized that we would have to move offices to avoid the double rent we were paying Matrix.

On that first day, Mr. Chairman, we decided that we would not declare bankruptcy, that we would do everything in our power to get the Guild back on its feet and moving again. Jockeys and their wives volunteered to work in our office and we worked 7 days a week, 12 hours a day to get things moving again.

Immediately, and taking a significant leap of faith, the Chairperson of the California Horseracing Board, Richard Shapiro, authorized the payment of hundreds of thousands of dollars of back health insurance funds that had been withheld while the CHRB investigated allegations of financial misconduct by Dr. Gertmenian. Shortly thereafter, led by Magna Entertainment Company, many racetracks began sending back media rights payments to the Guild. And our members, the backbone of our organization, stuck with us.

Our Board of Directors realized that, in order to get our financial house in order, we needed to institute a series of painful fiscal reforms to cut costs. These included:

- Increasing the eligibility requirements for our temporary disability program to minimum of 100 mounts in the current or previous calendar year.
- Raising our dues by 25%, from \$3 per mount to \$4 per mount.
- Creating a consistent policy in our permanent disability program so that all participants get the same benefits.
- Requiring that all jockeys who are in arrears in health insurance premiums make arrangements to pay their back premiums or lose coverage. We have recently terminated approximately 100 jockeys from the plan after making every effort to get them to pay the premiums they owe.
- Creating a Rules Committee charged with insuring that our members do not get behind in their health premium payments and to take action if they do.

In addition to fiscal reforms, we have instituted a number of institutional reforms to make our organization more democratic and more accountable to its membership. At our recent national assembly in Dallas, Texas, we approved amendments to our bylaws that did the following:

- Established a new system of national direct elections of the Guild Senate, to be held in June of this year and every two years thereafter.
- The Senators would run for office and represent three regions of the country, a western, central, and eastern region.
- The Senators would then elect a new Board of Directors.

Finally, we have improved our previously nonexistent system of internal communications. We have a web site that is regularly updated with current information to our members and we are informing our members by mail and in every jockeys' room in the country of new policies and issues as they arise.

We continue to represent our members vigorously at the racetracks, before the racing commissions around the country, and in front of state legislatures.

While we are not out of the woods yet and are still operating on a day-to-day basis, every day we are making progress towards restoring the integrity and strength of our organization.

Mr. Chairman, due to the determination of our members and help from our friends—including the members of this Committee—the Jockeys' Guild is moving in the right direction again.

Thank you again for the opportunity to be here today.

MR. WHITFIELD. Thank you, Mr. Haire.

At this time, I would like to recognize Mr. Broad for his opening statement.

MR. BROAD. Mr. Chairman and members of the committee, my name is Barry Broad, and I am legal counsel and legislative representative of the Jockeys' Guild in California. My firm was hired by former Guild National Manager John Giovanni in 1995, and I continued to represent the Jockeys' Guild right through last fall.

A few days after Wayne Gertmenian's testimony before your committee, I severed my relationship with the Guild, feeling that I could no longer represent its membership in good conscience so long as Dr. Gertmenian and his management firm, Matrix Capital Associates, were

employed by the Jockeys' Guild. I then volunteered my services to those members of the Jockeys' Guild Senate and Board of Directors who wished to remove Dr. Gertmenian. I was present during the emergency meeting of the Jockeys' Guild that was held by telephone conference call which resulted in the termination of Dr. Gertmenian. I was then appointed by the new interim Board of Directors as co-General Counsel of the Guild with Tom Kennedy of New York. Thereafter, I was in constant contact with the Monrovia police department and the FBI in the chaotic days following Dr. Gertmenian's removal to try to help ensure that evidence was preserved, and since then, I, along with many others, have been working on a daily basis to help this organization recover so that it can do its job of vigorously advancing the interests of professional jockeys.

Let me just take a moment of personal privilege to say that it's evident from what this committee does, I mean people get cynical about government and politics and all that sort of stuff, but the oversight role that you played made a real fundamental difference in this organization. But for what happened here last fall, I think that this organization would have been gone, completely gone by now.

Today, I will fill the committee in on what we know about the conduct of Dr. Gertmenian and his apparent alter ego, Matrix Capital Associates. It has fallen on my shoulders, I drew the short straw, I guess, to assist with the various investigations that have arisen from Dr. Gertmenian's tenure. It is the position of the Board of Directors that only through total openness and transparency can this organization restore its credibility with your committee, State regulators, the racing industry, and its own members.

First of all, it was immediately obvious that Dr. Gertmenian and the Guild's then General Counsel Lloyd Ownbey failed on a massive level to comply with your committee's subpoena. I set about establishing a cooperative, professional, and mutually respectful relationship with your staff and began to send documents that were responsive to the subpoena to Washington. I also worked with the FBI, who had served a subpoena, to help them locate Dr. Gertmenian and to give them information on how to try to get compliance with their subpoena.

To this date, we have sent thousands of pages of documents to your committee, and I have invited your staff to come to the Guild office in California to inspect documents and to interview employees. Until your investigation is formally concluded, you have our commitment that we will continue to provide your staff broad access to the Guild books and records. And I must say that I met with and have talked many times with Mr. Feddo, and this was a most cordial relationship, and it's sad that it

ever got to the place that it was. I find that incredibly baffling, or maybe not.

Anyway, the following are the major findings of what occurred during the tenure of Dr. Gertmenian. There was a systematic effort to mislead the Board of Directors and membership about the financial state of the Guild. Dr. Gertmenian stated repeatedly that to Guild members and to the board that the Guild had accumulated a \$3.5 million war chest. On the day he was fired, he told the senators that the Guild finances had never been better and again insisted that it had a \$3.5 million war chest. He said this when he knew full well that the Guild assets were nearly totally depleted.

In another example of this pattern of misleading conduct, Dr. Gertmenian hired an attorney to represent the Guild before this committee and told members of his Board of Directors that another labor organization was paying for the cost of the attorney, when in fact the Guild paid for the cost. As this committee uncovered, Dr. Gertmenian even attempted to assign an apparently inflated value to the services of consultants and even volunteers as a means of justifying the payments to Matrix.

On the day that Dr. Gertmenian was fired, he caused more than \$200,000 in checks to be issued to himself and Mr. Albert Fiss, leaving the Guild with just a few thousand dollars in the bank. These checks were written in direct violation of financial controls that were imposed by the Board of Directors prohibiting checks other than those to disabled riders to be issued in excess of \$200 without the express written approval of the treasurer, and he had been following that in the week before. So it was clear that he had knowledge of it.

He even arranged that employees loyal to him would receive layoff notices so that they would qualify for unemployment insurance benefits when they were in fact voluntarily quitting employment. This could have the effect, we'll find out, of not only raising the unemployment insurance rates for the Guild but for past employers of those employees.

In addition, they left with media rights documents that belonged to the Guild, which they only returned after I intervened with Dr. Gertmenian's criminal defense lawyer; computers, which we eventually got back; and financial records, some of which I think are still missing; and such personal property, collectible types of things reported in the press that seem to have disappeared as well.

Over the previous months and years, restricted trust accounts had been spent down that should have been maintained. These included trust accounts for health insurance reserves which were needed--which needed to be maintained in order to preserve the fiscal integrity of the Guild self-funded health insurance plan. You can't have a self-funded health

insurance plan and not have reserves against the day when claims exceed the premiums that you receive.

Moreover, approximately \$500,000 was depleted from savings accounts for individual jockeys that had been deposited with the Guild as an overpayment of dues. Some of these personal savings accounts had balances of thousands of dollars, and at this point, until we generate a budgetary surplus, we can only honor requests for withdrawals on a partial basis when funds are available.

Matrix Capital Associates was paid hundreds of thousands of dollars while Dr. Gertmenian was being paid a salary for full-time employment. We suspect that little value was delivered by Matrix for the large sums of money that were paid out.

In addition, associates of Dr. Gertmenian were paid tens of thousands of dollars for consulting fees that apparently resulted in the delivery of few actual services.

Dr. Gertmenian offered select members of the Guild free health insurance, apparently in order to curry internal political support. Such promises were made without the knowledge of the Board of Directors, and of course, at any point in a self-funded health plan that people stop paying health insurance premiums but receive the benefits, it means you're passing the cost along to everybody else. So you are imperiling the plan. It's a clear problem.

Dr. Gertmenian allowed jockeys who failed to pay health insurance premiums to remain covered by the plan. As a result, the amount of unpaid premiums reached a level of approximately \$700,000. This of course meant that there was cost shifting to other jockeys who were actually paying their premiums, causing the Guild's financial situation to worsen.

Guild General Counsel Ownbey failed to inform his Board of Directors and apparently offered no legal advice to them whatsoever about the plainly oppressive terms of the personal services agreements with Dr. Gertmenian and Matrix. Mr. Ownbey appeared to act as Dr. Gertmenian's personal attorney, not that of the Guild.

Incidentally, when your committee subpoenas were delivered to the Guild and Matrix, I called Mr. Ownbey and told him, in my opinion, Dr. Gertmenian needed to secure separate legal counsel immediately since his interests and that of the Guild were separate and that Mr. Ownbey needed to represent the Guild's interests separate and apart from that of the personal interests of Dr. Gertmenian and Matrix. That advice was evidently ignored.

There were numerous--have I run out of time?

MR. WHITFIELD. You have. About 3 minutes over.

MR. BROAD. Would you like me to continue?

MR. WHITFIELD. Why don't you summarize?

MR. BROAD. I'm sorry. Let me just conclude by the few remaining points. There were numerous acts of self-dealing in favoritism by Dr. Gertmenian, including things that we are just now investigating, like charging lots of meal expenses and so forth while he was not traveling. The Guild, as your committee noted, paid double rent. It rented two adjoining spaces, one occupied by Matrix, one occupied by the Guild, and it paid both sides' rent, including a maintenance fee to Matrix, another little profit center, if you will, but there didn't seem to be any maintenance being delivered for that.

Basically, while Dr. Gertmenian professed to be an international expert in business operations, he failed to operate the Guild in the most basic manner consistent with common and well understood business principles. For example, a few months ago, I was horrified one morning when I found out that the Guild had had no workers comp insurance for the entire period that Dr. Gertmenian was there, which in California, I don't know in other States, it's a criminal offense to willfully fail to provide that insurance. These kind of things occurred.

Finally, basic accounting practices were ignored, accounts were not kept up. We had no idea how much income the Guild had, who in particular had unpaid premiums for health insurance and who they were, and we've had to catch up to all of that.

I believe this gives you a flavor for what occurred during the period. I am available to answer any questions that you might have. Thank you for allowing me to testify today.

[The prepared statement of Barry Broad follows:]

PREPARED STATEMENT OF BARRY BROAD, NATIONAL LEGAL COUNSEL, THE JOCKEYS'  
GUILD

Chairman Whitfield and Members of the Committee:

My name is Barry Broad and I am legal counsel and legislative representative of the Jockeys' Guild in California. My firm was hired by former Guild National Manager John Giovanni in 1995 and I continued to represent the Jockeys' Guild right through last fall. A few days after Wayne Gertmenian's testimony before your Committee, I severed my relationship with the Guild, feeling that I could no longer represent its membership in good conscience so long as Dr. Gertmenian and his management firm, Matrix Capital Associates, were employed by the Jockeys' Guild. I then volunteered my services to those members of the Jockeys' Guild Senate and Board of Directors who wished to remove Dr. Gertmenian. I was present during the emergency meeting of the Jockeys' Guild that was held by telephone conference call which resulted in the termination of Dr. Gertmenian. I was then appointed by the new interim Board of Directors as co-General Counsel of the Guild. Thereafter, I was in constant contact with the Monrovia Police Department and the FBI in the chaotic days following Dr. Gertmenian's removal to try to help insure that evidence was preserved, and, since then, I, along with many others, have been working on a daily basis to help this organization recover so that it can do its job of vigorously advancing the interests of professional jockeys.

Today, I will fill the Committee in on what we now know about the conduct of Dr. Gertmenian and his apparent alter ego, Matrix Capital Associates. It has fallen on my shoulders to assist with the various investigations that have arisen from Dr. Gertmenian's tenure. It is the position of our Board of Directors that, only through total openness and transparency, can this organization restore its credibility with your Committee, state regulators, the racing industry, and its own members.

First of all, it was immediately obvious that Dr. Gertmenian and the Guild's then General Counsel, Lloyd Ownbey, failed on a massive level to comply with your Committee's subpoena. I set about establishing a cooperative, professional, and mutually respectful relationship with your staff and began to send documents that were responsive to the subpoena to Washington. To date, we have sent thousands of pages of documents and I have invited your staff to come to the Guild's office in California to inspect documents and interview employees. Until your investigation is formally concluded, you have our commitment that we will continue to provide your staff broad access to the Guild's books and records.

The following are the major findings of what occurred during the tenure of Dr. Gertmenian:

1. There was a systematic effort to mislead the Board of Directors and Membership about the financial state of the Guild. Dr. Gertmenian stated repeatedly that the Guild had accumulated a \$3.5 million "war chest". On the day he was fired, he told the Senators that the Guild's finances had never been better and again insisted that it had a \$3.5 million war chest. He said this when he knew full well that the Guild's assets were nearly totally depleted. In another example of this pattern of misleading conduct, Dr. Gertmenian hired an attorney to represent the Guild before this Committee and told members of his Board of Directors that another labor organization was paying for the cost of that attorney when, in fact, the Guild paid for the cost. As this Committee uncovered, Dr. Gertmenian even attempted to assign an apparently inflated value to the services of consultants and even volunteers as a means of justifying the payments made to Matrix.
2. On the day that Dr. Gertmenian was fired, he caused more than \$200,000 in checks to be issued to himself and Mr. Albert Fiss, leaving the Guild with just a few thousand dollars in the bank. These checks were written in direct violation of financial controls that were imposed by the Board of Directors prohibiting checks, other than those to disabled riders, to be issued in excess of \$200 without the express written approval of the Treasurer. He even arranged that employees loyal to him would receive lay-off notices, so that they would qualify for unemployment insurance benefits when they were, in fact, voluntarily quitting employment. This could have the effect of not only raising the unemployment insurance rates for the Guild but for past employers of those employees.
3. Over the previous months and years, restricted trust accounts had been spent down that should have been maintained. These included trust accounts for health insurance reserves, which needed to be maintained in order to preserve the fiscal integrity of the Guild's self-funded health insurance plan. Moreover, approximately \$500,000 was depleted from the savings accounts for individual jockeys that had been deposited with the Guild as overpayment of dues. Some of these personal savings accounts had balances of thousands of dollars and, at this point, until we generate a budgetary surplus, we can only honor requests for withdrawals on a partial basis when funds are available.



4. Matrix Capital Associates was paid hundreds of thousands of dollars while Dr. Gertmenian was being paid a salary for full-time employment. We suspect that little of value was delivered by Matrix for the large sums of money that were paid out. In addition, associates of Dr. Gertmenian were paid tens of thousands of dollars for consulting fees that, apparently, resulted in the delivery of few actual services.
5. Dr. Gertmenian offered certain select members of the Guild free health insurance, apparently in order to curry internal political support. Such promises were made without the knowledge of the Board of Directors.
6. Dr. Gertmenian allowed jockeys who had failed to pay health insurance premiums to remain covered by the plan. As a result, the amount of unpaid premiums reached a level of approximately \$700,000. This, of course, meant that there was cost shifting to other jockeys, who were actually paying their premiums, causing the Guild's financial situation to worsen.
7. Guild General Counsel Ownbey failed to inform his Board of Directors and apparently offered no legal advice to them whatsoever about the plainly oppressive terms of the personal services agreement with Dr. Gertmenian and Matrix. Mr. Ownbey appeared to act as Dr. Gertmenian's personal attorney, not that of the Guild. Incidentally, when your Committee's subpoenas were delivered to the Guild and Matrix, I called Mr. Ownbey and told him that, in my opinion, Dr. Gertmenian needed to secure separate legal counsel, since his interests and that of the Guild were separate and that Mr. Ownbey needed to represent the Guild's interests separate and apart from that of the personal interests of Dr. Gertmenian and Matrix. That advice was evidently ignored.
8. There were numerous acts of self-dealing and favoritism by Dr. Gertmenian, including charging meal and entertainment expenses to the Guild when he was not traveling on Guild business. Dr. Gertmenian caused the Guild to pay for the office rent of the space adjoining the Guild's office which was occupied by Matrix Capital Associates, a separate business entity, resulting in the Guild paying roughly double the rent for the space that it used. As if that weren't enough, Matrix added a "maintenance fee" to the rent. However, there is no evidence that any maintenance services were actually provided by Matrix. Indeed, there was no written lease agreement between the Guild and Matrix or between the Guild and the property owner. Gertmenian also apparently permitted select employees to be reimbursed for personal expenses, including car repairs, dry cleaning, groceries, and other personal expenses.
9. While Dr. Gertmenian professed to be an expert in business operations, he failed to operate the Guild in a manner consistent with adherence to even the most common and well understood business principals. For example, apparently during the entire period of his tenure, the Guild did not have a workers' compensation insurance policy in place to cover its own employees. This exposed the Guild to enormous potential civil liability. In California, the failure to secure workers' compensation insurance is a criminal offense. Fortunately, no employee of the Guild suffered a work related injury. Similarly, the Guild routinely failed to enter into written agreements for personal services agreements for its consultants and apparently did not even have a fee agreement with its General Counsel, Mr. Ownbey, contrary to California law and ethical standards.

Matrix Capital Associates was paid a monthly fee, but did not submit invoices and did not specify what services were being provided.

10. When Dr. Gertmenian was fired and the new management had access to the accounting system, it was apparent that basic accounting practices had been ignored. We did not even know which jockeys had paid their health insurance premiums and which had not. Large amounts of data related to jockey mounts had simply not been entered into the system, thereby making it impossible to ascertain how much money racetracks had forwarded to the Guild in the form of dues and health insurance premiums.

I could go on and on, but I believe that you have the flavor of what occurred under the tenure of Dr. Gertmenian.

I am available to answer any questions you might have.

Thank you for allowing me to testify today.

MR. WHITFIELD. Mr. Broad, thank you. I can assure you that there's not anything you can tell us about Mr. Gertmenian that would surprise us because it was quite obvious that he was totally ripping off the Guild, and I do hope that the criminal investigations will continue and he will be charged with something. That's not my decision to make. But I want to commend all of you for the great work that you have done in trying to maintain the integrity of the Guild and hopefully rebuild it because it certainly has a vital role to play in this industry.

Mr. Velazquez, I want to ask you a couple of questions. You were injured recently at Keeneland, and one of the things that many of us have been focusing on, we know that this industry is fragmented, each State has different rules and each track operates in different ways. Recently, for example, there was an accident up in Turfway Park where a horse went down and the jockey was killed, and we know that there have been a number of deaths over the last 4 or 5 years. We also know that in the racing industry, it's not unusual that horses are administered certain drugs before a race or at various times, and we know that that is always a challenge and jockeys frequently do not know what the horse has in his system.

When your horse went down, that horse was euthanized, is that correct?

MR. VELAZQUEZ. That's correct.

MR. WHITFIELD. Do you know if a necropsy was performed on the horse?

MR. VELAZQUEZ. I'm sorry?

MR. WHITFIELD. Do you know if a necropsy was performed on the horse.

MR. VELAZQUEZ. I don't know.

MR. WHITFIELD. It's my understanding, I may be wrong, it's my understanding a necropsy was not performed. Also, when the horse went

down in Turfway and the jockey was killed up there, it's my understanding that a necropsy was not performed.

I do find it hard to imagine that there is not some uniform rule around the country that when these horses go down and jockeys go down, I mean, it would be very easy for three or four horses to go down if one goes down. I do think that something we want to continue to look at is this whole policy of necropsies on these horses that go down on the track.

I am assuming that, as a jockey and someone whose life is dependent upon safety, that you would certainly welcome necropsies as a matter of course on every horse that has to be euthanized on the track.

MR. VELAZQUEZ. We decided, actually, we started doing our own research about how many horses have been breaking down and all this stuff. So for us to receive a piece of paper or some sort of response back that the situation with how the horses were treated afterwards or how many was broke down is very difficult for us to get any answers. Basically we don't get--

MR. WHITFIELD. I know you don't get any answers. The public doesn't get any.

MR. VELAZQUEZ. We have been trying to implement new rules throughout the country that we get this information. Obviously, until this point, we haven't got much.

MR. WHITFIELD. It's not going to be done until the race tracks and/or the racing authorities in each State or some Federal mandate demands that it be done. Obviously, one reason it is not being done is the cost involved.

I'm assuming, Mr. Haire, that you would value necropsies being performed on these horses, is that correct?

MR. HAIRE. Absolutely, sir.

MR. WHITFIELD. Okay. Mr. Stupak had mentioned during his testimony that we are looking for ways to address this, and I do firmly believe from the analysis that I have done that the easiest, quickest way to address this issue on insurance would be in the Interstate Horseracing Act. I say that because the 1978 act which provided the foundation is for simulcasting where most wagers are being conducted today; that's where most of the purses are coming from, that act allowed the horsemen's group, and we know that there is a different horsemen's group in every State, but predominantly it is the Horsemen's Benevolent Protective Association; that they have veto power over the simulcast agreement between the track and the simulcastors. Because of that veto power, they receive an administrative fee for agreeing or not agreeing to the contract.

The head of the Kentucky HBPA testified in Congress that the Kentucky HBPA alone receives right at a million dollars a year for

simply agreeing to the contract. To be truthful, if you multiply that by 38 States and jurisdictions and the money being paid to the horsemen's group, who certainly have an interest in racing, but there isn't any group in my view any more important to racing than jockeys, there is no reason that jockeys should not be able to get a part of that administrative fee, and whether it's paid directly to them or to a local racing authority with a mandate that the authority adopt a policy, an insurance policy, I personally think that would be the easiest, quickest, best way to go. And I would just ask you all, you three and Mr. Saumell, if you want to testify, what you think about that concept?

MR. BROAD. I think we wholeheartedly agree with that. The Jockeys' Guild finances these various health and welfare programs from a variety of different sources, most of which are depending on maintaining, to be frank, an absolutely cordial relationship with those with whom we may have an adversarial position on health and welfare issues, and that makes it very difficult for us to do our job. We need to operate at a respectful hands-off kind of relationship, and that's what changing the law would allow.

MR. WHITFIELD. The reason the Horseracing Act is the way it is, is because the HBPA had a part in the adoption of the passage of that legislation, and I don't think the jockeys were at the table. But would you support that kind of a concept, Mr. Haire?

MR. HAIRE. Yes, sir.

MR. WHITFIELD. What about you, Mr. Velazquez?

MR. VELAZQUEZ. Absolutely, sir. I think it would give us the resources so we can help our members with the proper insurance.

Let me add, sir, that we help to bring a lot of revenue to the race tracks and to the horsemen's group also. I can add myself obviously as a jockey and being one of the top jockeys in the country, we bring a lot of money to the table by the way they sell the signal. Obviously not only by having the top jockeys and the signals sell the way they are, but they also need the lower jockeys that don't ride that many horses because they need to have a full race, 10-horse field, so everybody contributes to it. I think we need that little piece of the table.

MR. WHITFIELD. I mean, from my perspective, the HBPA in Kentucky does not have any dues-paying members and yet they are speaking for, they say trainers and horsemen groups or owners, and they are the ones receiving the million dollars a year, and they are not purchasing any insurance for anybody I can see, except their own officers and no one else, and they are filing a lot of lawsuits over a lot of issues that they don't like to deal with. If you multiply it by the other States--I mean, the thing I like about it is it would not take any additional money from the race tracks, it would simply be a redistribution of the fee

that is already being paid. And I still do not understand why the horsemen's group would be the exclusive group to receive the money.

Now let me ask you, the sad thing about what's happened to the Jockeys' Guild, you all had a disability fund that had at least over a million dollars in it at one time; is that correct?

MR. HAIRE. Yes, sir.

MR. WHITFIELD. I'm sorry, Mr. Saumell.

MR. SAUMELL. A million-three.

MR. WHITFIELD. Then you had the race tracks, some of them had policies that they were paying for in some States in addition to the disability fund; is that correct?

MR. HAIRE. Paying for it.

MR. WHITFIELD. They were providing the coverage.

MR. HAIRE. In workmans comp States, yes, sir.

MR. WHITFIELD. Some of the tracks were even making payments to Jockeys' Guild in cash payments; were they not?

MR. HAIRE. The cash payments, the media rights.

MR. VELAZQUEZ. Media rights, yes.

MR. WHITFIELD. Okay. And then, of course, after Gertmenian, the disability fund was wiped out, the tracks lost confidence in the Guild. I guess the media payments are still being paid to the Guild; is that correct?

MR. VELAZQUEZ. Some of them. Some of the race tracks. By the end of last year, a lot of them stopped paying, and that's why we are in the situation we are in right now.

MR. WHITFIELD. How many race tracks are there in the country? Does anybody know the exact number? Okay, we'll get that. My understanding is that some tracks voluntarily provide insurance coverage, which we applaud, other tracks do not, so there's no uniformity whatsoever. So this is definitely an area that there needs to be some strong leadership in, and there is enough money in this industry to address this problem. And, to me, it's not so much about the racing industry per se, but we're talking about health insurance here. When jockeys are injured and there is no coverage, then they become a part of the Medicaid system, and the taxpayers pick up the fee, and that's running out of control, and we have a pool of money here that can address these problems, in my view.

So I recognize Mr. Stupak for any questions he may have.

MR. STUPAK. Thank you, Mr. Chairman.

Mr. Velazquez, you indicated in your testimony that there's this new jointly administered program to fund a fund for permanently disabled riders. Who pays into that fund?

MR. VELAZQUEZ. It's going to be in the form of charities. There are going to be charity events, and the racetracks are going to donate some part of the money for disabled riders.

MR. STUPAK. Would this be a charity sponsored by the Guild, the tracks?

MR. VELAZQUEZ. All of us. All of us, yes.

MR. STUPAK. Had any thought been given to doing something like we saw this weekend for the Kentucky Derby, this 24 carat gold plated -

MR. VELAZQUEZ. I saw that on TV. Obviously, I'm hurt, so I was watching that on TV.

MR. STUPAK. What did you think?

MR. VELAZQUEZ. When they announced where the proceeds were going to, my mouth just dropped. It's great that we're doing something, and I support it a hundred percent because I have done charities for retired horses myself, but we have human lives, and we have families, and we have children that depend on, and in this industry there is so much money, and it saddens me that they forget us. They always put the jockeys to the bottom of the list. It's always the last thing they could think about.

Here we are, the human lives, a huge part of the business, and we always are the last ones to get a percentage of the percentage of the percentage.

MR. STUPAK. Have your charity check with Woodford Reserve, maybe they will do something for you this year. Mint from Morocco, ice from the Arctic Circle and sugar from the South Pacific, all served up in that cup with a silver straw. Sounds pretty intriguing.

What do riders have for, including exercise riders, what do they have for retirement? Social Security?

MR. VELAZQUEZ. I'm sorry?

MR. STUPAK. Exercise riders, what do they have?

MR. VELAZQUEZ. No retirement, sir.

MR. STUPAK. All based on your earnings?

MR. VELAZQUEZ. Earnings and whatever you pay into Social Security.

MR. STUPAK. The Chairman asked you if tracks were withholding payments for a while, probably because they lost, I don't know why, I guess we would have to ask tracks, but some are paying again and others are not.

MR. VELAZQUEZ. Yes. Some of them started paying the money received from media rights.

MR. STUPAK. Is that mandatory?

MR. VELAZQUEZ. That's the problem that we had. The contract that we had in the past with the race tracks for the media rights, it was called--not mandatory. What was the word they use in this country?

MR. BROAD. Let me explain what it was. Historically, it was a contract negotiated with the TRA. But then to make it enforceable against any individual track, the Guild would then have to go from track to track to track, and I think there are over a hundred tracks, basically to try to make it binding on each particular track. Otherwise, it was voluntary.

During the period of Dr. Gertmenian, and maybe slightly before, these individually binding agreements were allowed to lapse so that, at this point, none of them are actually obligated contractually to pay anything. Some of them are paying voluntarily the amount they owed under the existing agreement.

MR. STUPAK. So there's no real recourse.

MR. BROAD. No, there's not.

MR. HAIRE. Now that some of these race tracks with the million dollar policy, or half a million, they are not paying the media rights because they are paying the premiums, and that's their responsibility, we feel. That's the cost of doing business to take care of these jockeys, cover them, but now I guess they don't think we have media rights.

Now they are saying that's always been a question in their mind, and now some race tracks are paying, and there are a lot of race tracks that are paying.

MR. STUPAK. But if a race track doesn't pay, you have no recourse and riders, I should say jockeys, have to ride if they are going to get paid, if they're going to make a living; right?

MR. VELAZQUEZ. Exactly, yes. Basically, a lot of the money is used for health insurance. Media rights is money--obviously, it was used, most of it, for disabled riders, and part of the money will go for health insurance. It was set up for many years. Obviously with the health insurance coverage, it's tripled for the last 4 years. The cost of living is much higher.

MR. STUPAK. I want to ask more questions about the tracks. Mr. Saumell, you're the Jockeys' Guild representative for riders in West Virginia at Mountaineer and Charles Town.

MR. SAUMELL. Yes, sir.

MR. STUPAK. Do you visit the jockeys' room at the racetracks regularly?

MR. SAUMELL. I'm probably at Mountaineer six times a year, and Charles Town six to eight times a year.

MR. STUPAK. Have you been to Mountaineer and Charles Town since our hearing in last November?

MR. SAUMELL. I was there twice this year already.

MR. STUPAK. I want to ask you about exhibit number 3. Is there a book with some exhibits? It would be a binder.

MR. SAUMELL. Number 3, sir?

MR. STUPAK. Number 3. In there, it says document number 3 is titled: Questions from the Honorable Bart Stupak and answers from Ms. Rose Mary Williams. I refer you to question 11, it reads, "have you or anyone at Mountaineer that reports to you ever pressured a jockey that objected to track or weather conditions to ride in a way"--and it says please also note that the answer is supplied by Ms. Williams--and she says, "I have never pressured a jockey to ride if a jockey objected on the basis of weather or track conditions; to my knowledge no one who reported to me has done so either."

Let me ask you, in your experience in talking with these jockeys, do you have reason to believe what Ms. Williams told this committee last November about not pressing jockeys to ride?

MR. SAUMELL. I would say that's an inadequate statement.

MR. STUPAK. Inadequate statement. What would you base your opinion that this was an inadequate statement that she gave the committee?

MR. SAUMELL. Riders have been pressured to ride under inadequate conditions.

MR. STUPAK. In what way?

MR. SAUMELL. Well, when a track condition is bad, it's bad. And it comes down to when riders collectively want to join together and cancel racing, it's come to the point where, in Mountaineer, they're not allowed to do that.

MR. STUPAK. What do you mean they are not allowed to? How would they be forced to ride if they don't feel it's safe to ride?

MR. VELAZQUEZ. They tell the riders go somewhere else.

MR. SAUMELL. They are not allowed to collectively join together and discuss the conditions of the racetrack.

MR. STUPAK. If I'm a rider at Mountaineer, and I feel I don't want to ride, do I have a contract, or is my ability to earn my income based upon every race and every ride I may take?

MR. VELAZQUEZ. Yes. You have to go and ride, otherwise you don't get paid. When you get the conditions of the track unsafe or whatever reason it is, now the guys are coming back, look, the track isn't safe, unsafe for the horses, unsafe for the jockeys themselves, so now they have to talk to management to agree on something; we can't continue racing. Well, you can be forced. If you don't go and ride, you have got to be out of here.



MR. STUPAK. I know very little about your profession, but if I'm riding, don't I work for an owner of a horse, don't I work for that owner of that horse?

MR. VELAZQUEZ. Yes, yes.

MR. STUPAK. Wouldn't it be in my best interest to say not only is it unsafe but wouldn't it also be unsafe for the horse?

MR. VELAZQUEZ. Yes.

MR. STUPAK. Can race track owners or owners or managers at let's say Mountaineer or Charles Town, if I said I'm not going to race, could they assign a different rider to race my horse?

MR. VELAZQUEZ. Yes.

MR. STUPAK. But isn't the contract or the agreement to ride between me and the owner?

MR. VELAZQUEZ. Basically, if you're not riding, you say I'm not riding for whatever the reason. They go and ask the next guy. If you don't ride here, you have to go somewhere else. Basically what happens is they usually get the guy that does not get to ride that many races or does not do as well. So now he's put in a bad place where, if I don't ride here, I have to go somewhere else.

MR. STUPAK. But if I feel as a jockey that it's unsafe for me, it's also unsafe for the horse.

MR. VELAZQUEZ. Yeah, but they add pressure to it.

MR. VELAZQUEZ. It happens everywhere in the country.

MR. STUPAK. Sure.

MR. VELAZQUEZ. I was told 3 years ago on one racetrack if I didn't do what they wanted me to do--I'm a jockey. The last 3 years in the country I was told by somebody, one of the managers, that if I didn't take a picture after the winner's circle, which has nothing to do with me, I was not to ever ride on that racetrack again. This is me, that--

MR. STUPAK. So what--without some kind of legal rights and, as I've mentioned before, collective bargaining, National Labor Relations Board, what recourse do you have now?

MR. VELAZQUEZ. What resources?

MR. STUPAK. What recourse. How can you stand up to the track owners or managers?

MR. VELAZQUEZ. None. You can't do anything.

MR. SAUMELL. We have no collective bargaining rights. You meet, and you decide, the riders, take it upon themselves because the riders are the ones that if it's that dangerous, they don't want to ride --

MR. VELAZQUEZ. That's the only way we take care of one another. The message is, we go out there and try to kill ourselves, or we take care of one another and just walk out of here all together. That's the only way.

MR. STUPAK. Mr. Velazquez, you're one of the top riders. Wouldn't it be in the track's best interest to keep you happy and keep you riding at that track?

MR. VELAZQUEZ. Somebody else will take my place, sir.

MR. STUPAK. Sure. But aren't you sort of a draw, much like the horse you may be running or riding?

MR. VELAZQUEZ. I'm sorry?

MR. STUPAK. Aren't you, yourself, being one of the top jockeys in the country, being a draw?

MR. VELAZQUEZ. Yes.

MR. STUPAK. Wouldn't people love to see you ride?

MR. VELAZQUEZ. Yes, I would believe so. But if I would not go out there, they will put somebody else to fill my place. They will take the chances. The revenue would be lower, obviously, but they still have the race. That's how they break it up all the time.

MR. STUPAK. That's what I'm learning in this third hearing we've had now, Mr. Chairman. I'm finding it interesting as I'm learning more and more about this industry. Thank you.

MR. WHITFIELD. I want to ask a few more questions. Mr. Velazquez, we had talked about how you work for the owner of the horse, but I think practically speaking, while technically that may be true, in actual practice you really work for the trainer, don't you? I mean, doesn't the trainer really make a lot of the decisions?

MR. VELAZQUEZ. A lot of them do, but a lot of owners do as well. It has to be a communication between the trainer and the owners. I mean, basically we work for everybody in the racetrack.

MR. WHITFIELD. Right.

MR. VELAZQUEZ. I mean, we have to follow the rules.

MR. WHITFIELD. Right.

MR. VELAZQUEZ. We can get fined if we're not on time for whatever reason. We can be thrown out of the racetrack for whatever reason if you don't follow the rules. We get fined if you get up--let's say that I'm going down the lane, and my horse is not going well, and he's just not going well. And I know for a fact the horse is not going well. Now I have to hold him together so he doesn't break down, so he doesn't fall down.

MR. WHITFIELD. If your horse is not going well during the warm-up, don't you have the option of just saying--

MR. VELAZQUEZ. Oh, I could do that, too, but it would have to be really bad for the horse not to race though. But it could happen during the race.

The horse could warm up right now, sir. You gallop to the gate, the horse warms up perfect, nothing wrong with it. It would break from the

gate and would clip another horse's heels, or hit themselves or whatever reason; it could stumble out of the gate. Now the horse is not going well. Now you are taking the chance, letting him see how it feels. Now they're changing the stride. Now they're not going well at all. So let's say I'm going towards the wire now, and he's not feeling very well, it's getting wobbly underneath myself, and I have to stand up before the wire, and God forbid lose, third or fourth place, and they are calling to the stewards or racetrack or whatever it may be. Now I'm getting fined because I'm standing up before the wire because I cost the bettors the place.

So who am I working for? I'm working for the owners. I'm working for the racetrack.

MR. WHITFIELD. So you would be fined.

MR. VELAZQUEZ. I'm getting fined by just trying to save myself, saving the horse, obviously. I think more damage if I continue riding the horse.

MR. WHITFIELD. How much of a fine?

MR. VELAZQUEZ. It could be from \$100 to \$250. It all depends on where you are.

MR. WHITFIELD. Okay. Were you scheduled to ride in the Derby before your accident?

MR. VELAZQUEZ. Yes, sir.

MR. WHITFIELD. Who were you scheduled to ride?

MR. VELAZQUEZ. The horse that finished second. Bluegrass Cat.

MR. WHITFIELD. Yeah, Bluegrass Cat. Okay.

MR. VELAZQUEZ. By the way, I'm speaking here because I think a voice needs to be heard, and this is going to hurt me more than anything else.

People, they're very influential and very powerful in the business, that I know for the fact me talking to you and the way I'm talking and exposing all this out, there are people that would never ride me again, maybe take a year or two. I mean, I was warned by Gary Bailey, Jerry Stevens when I took this job early January, December, be careful what you said because there will be people in this industry that never ride you again.

MR. WHITFIELD. You are taking a position with the Jockeys' Guild, you could theoretically be blacklisted by certain people.

MR. VELAZQUEZ. Well, could be. At least I have a good job that I have really good owners that I ride for, and I have a good trainer that I have good relationship, and, I just didn't believe that something like that would happen to me. But, I'm going to take my chances and see what happens, and whatever comes with it, I think I'm a big boy and that I take whatever comes to me.

MR. WHITFIELD. Well, we know it's a dangerous sport. We know it's a popular sport. We know there's a lot of money in it. And I think all of us have a responsibility to do everything we can to make it as safe as possible with the guidelines and provide adequate insurance for people involved, and I think there's enough money to do that.

How many jockeys are there in the U.S.?

MR. SAUMELL. Approximately 1,800 that are licensed.

MR. WHITFIELD. Eighteen hundred?

MR. VELAZQUEZ. Twelve hundred riders actually do ride like--the races, yeah.

MR. WHITFIELD. So, 1,800 jockeys and warm-up riders, is that what we're saying? Or 1,800 jockeys?

MR. HAIRE. Eighteen hundred riders who are licensed.

MR. BROAD. Some of them ride very few races. Would you say, gentlemen, it's about 1,200 are the ones that are riding maybe more than 100 races a year or something, ride the vast majority?

MR. VELAZQUEZ. A lot of them, they carry jockey license, those could be S.S.I. riders and the--also, but they have a license where they can go and ride a race or two.

MR. WHITFIELD. Let's say that Mr. Stupak and I are jockeys, which no one would ever hire us, but if we're jockeys, we can voluntarily pay our \$4 mount fee to the Jockeys' Guild. We don't have to do it.

MR. HAIRE. That's correct.

MR. WHITFIELD. It's up to us. If you can do it. Hopefully we're in a position you can get insurance.

MR. HAIRE. Representation.

MR. WHITFIELD. Okay. Okay.

MR. VELAZQUEZ. Yes, sir. Can I have another minute, another find that I have just last year to see who will I be working for, because I don't understand it if it's just the owner or the trainer or the racetrack.

Let me tell you that last year, it was the fall last year--the year before, I'm sorry. This is about a year and a half ago. Obviously I ride a lot of horses for the owners. I don't remember which one it was, and he put a few horses up. Just open up. To tell you the truth, I hate it. I don't like working all day, and I have to go work at night.

So I was supposed to go and ride the stake. So he named me on a couple horses before the stake, and he ended up scratching the horse and the stake. So he told me, look, you don't have to go. I'm going to take you off the other horses. And I was naming a horse a friend of mine which I didn't have to go. I didn't have any commitment to go because that's a place I don't like to go. So he said to me, you don't have to go.

But the next day I'm called by the stewards and the Meadowlands, and they told me that I needed to pay a fine because I didn't complete my business. I didn't fulfill my--

MR. SAUMELL. Your obligation.

MR. VELAZQUEZ. My obligation. And I said, excuse me, sir? I wasn't even supposed to go there. I was named on the horses by my trainer, who told me that I didn't have to go. So I talked to him myself. I said, what happened? They're fining me for not going that night. He said, I told them I was taking you off the horses. If anyone needed to be fined, it was me, because I was the one that put you on the horses.

Well, I didn't pay the fine, sir, because I didn't think it was my fault by whatever. So a month later they called--actually, it was Aqueduct. A month later they called, Aqueduct Racetrack. The steward called me in. If I did not pay the fine, I was not allowed to ride in New York because I didn't pay the fine in Jersey.

So who am I working for? I mean, we have so many bosses, you don't know where it's coming from.

MR. WHITFIELD. Yeah, I understand.

MR. VELAZQUEZ. Ultimately I ended up paying the fine so I could ride at Aqueduct.

MR. WHITFIELD. Well, thank you for sharing that with us. That does provide some additional input.

MR. SAUMELL. I just would like to clarify a statement earlier because I noted Johnny has--rides a lot of different racetracks and a lot of higher-quality racetracks than some of the ones that I represent, but when I was trying to get to the fact about Mountaineer, if their conditions aren't up to the standards of the rest of the racetracks in the country, they are below most standards. The racetrack and the track superintendent might be one of the worst in the country. Talking to him, you get no response; and the jockey get no respect there whatsoever.

MR. WHITFIELD. Could you give us some examples of something that's below standard?

MR. SAUMELL. Standard? Well, the clods can be about as big as this microphone on the base of it, a clod that big where--

MR. WHITFIELD. Ordinary clod on the track?

MR. SAUMELL. Yeah. All over the racetrack. And they'll tell you they're not there. I say, well, I guess everybody else just doesn't see them, or all the jockeys are wrong because--

MR. WHITFIELD. Is there any uniform reporting of accidents on a racetrack?

MR. SAUMELL. Well, in 2000, Mountaineer had the highest accidents in the United States.

MR. WHITFIELD. Do you know the number?

MR. SAUMELL. Thirty-one percent of all the accidents in the United States happened in Mountaineer in 2000.

MR. WHITFIELD. Thirty-one percent of all the accidents on the tracks in the U.S. happened on Mountaineer?

MR. SAUMELL. Um-hum, and that was by Mather & Co.

MR. HAIRE. I used to attend that racetrack about 3 years ago, 3 or 4 years ago. When I started going there, the riders right away would come to me and say, Darrell, you don't know what goes on here. We are so intimidated in the middle of winter when the racetrack's bad, the weather's bad, the general manager would come in and just tell us, basically you need to go out there and ride; otherwise pack your tack and leave. And they would be intimidated. That's all I would hear. They would leave and they had nowhere else to go.

So they were more or less had to make a living and go out there against their will. But they're telling you, if you don't like it, then leave. We don't need you here.

MR. WHITFIELD. Well, are there plenty of jockeys that would ride? Wouldn't that stop their race meet if the jockeys left?

MR. SAUMELL. Well, I'll give you an example, sir. Every other racetrack in the country where slots have been implemented, the racing colony has progressively changed and gotten better and better and better. The racing colony at Mountaineer is the same racing colony that they've had the last 10 years. Riders don't go to Mountaineer. There has to be a reason, because there's an awful lot of money given away, but you don't see new faces. If you go to Charles Town or Prairie Meadows or Delaware Park, some of the top riders in the country are going to those racetracks to ride. You don't get the top riders in the country going to Mountaineer to ride.

MR. WHITFIELD. Thank you. We will certainly get into more in this, and we want to maintain dialogue with you all.

I want to ask one more question, and then I will recognize Mr. Stupak. And I haven't talked to Mr. Stupak in great detail about this, but if Mr. Stupak and I came to an agreement and introduced legislation to amend the Interstate Horse Racing Act so that the jockeys had some say so over approving the simulcast agreement; and as a result of that, you received a certain percentage of the money that the horsemen's group receives, and/or the racing authority received that with a mandate that they provide insurance for the jockeys, for the backside people and so forth, conceptually, is that something that you all could support? Recognizing that there's some details to--

MR. HAIRE. Absolutely. Absolutely.

MR. VELAZQUEZ. I support it, sir; but I have to say that it's not going to sit very well for my business, if you will. It's going to be a lot

of horsemen who will be mad about, that they're losing their revenue, and they're going to take it out somewhere.

But also, I think there's a lot of issues they should be covering also. They put it on and wear a helmet and risk their lives as well by working in the racetrack. I think they should be covered also.

MR. WHITFIELD. I haven't really figured out myself who the horsemen's group really represents, since they have no dues-paying members.

MR. VELAZQUEZ. So it's very difficult for us. I support anything that's going to help our Guild and our members; and obviously, we need some sort of resources that they will help better to--to support disabled riders and their families, obviously. So it's just a very touchy situation when we go and lose something like that against the horsemen.

MR. WHITFIELD. I know, but let me just say this. But if the jockeys had been organized back in 1978 and were sitting there working on this legislation, it would have been very easy to have included them as well as the horsemen's group as a recipient of some of these funds.

MR. HAIRE. I'm a little confused about how that--we weren't even included. I guess the jockeys aren't included--or not horsemen. Jockeys aren't horsemen? We were never even included. And when I bring this up to some horsemen, they'll say, well, you are included, Darrell, in the purses. You know--

MR. WHITFIELD. They're included in the purses, too.

MR. HAIRE. We had no say-so, and I guess jockeys aren't horsemen.

MR. WHITFIELD. Well, I'll recognize Mr. Stupak.

MR. STUPAK. Mr. Broad, last hearing or so I remember hearing something about an endowment fund that the guild had. And it seems to me that contributions were supposed to be made; nothing could be paid out until it reached a certain limit. What has happened to that fund? Was it funded during Dr. Gertmenian's reign, or what happened there?

MR. BROAD. Money was transferred from the Disabled Jockeys Fund that the Guild had into that endowment. Fortunately the money was preserved in it. There was also additional money that came in as a result of legislation that we got passed in California that was adding money to that endowment.

We did have to go through a little struggle after November to get new people elected to the Board of Directors of that endowment; and we finally succeeded in getting Mr. Shapiro, the Chair of the CHRB; and John is on there, Velazquez; Darrell is an ex officio member. Who else did we get on there? Lafitte and Kay--so that we felt confident that it was--there was great resistance from Mr. Fiss about leaving. We got him to resign, and so we feel that money is safe. What's a little problematic is its bylaws remain the same, and it can't pay out anything until it

reaches \$10 million in the corpus of that endowment, and we probably would need that sooner than that.

MR. STUPAK. Where are you now with the corpus? How much?

MR. BROAD. I believe it's about \$2 million.

MR. STUPAK. Long ways to go.

MR. BROAD. Is it 1.5?

MR. VELAZQUEZ. 1.3 and change.

MR. BROAD. 1.3, all right.

MR. STUPAK. So it's a long ways to go.

MR. BROAD. It's got a long ways to go.

MR. STUPAK. The Chairman said in his opening statement--and I can't remember exactly. He said something like \$116- or \$161 million. Almost was his wage and weekly.

MR. WHITFIELD. One hundred nineteen on the Derby alone.

MR. STUPAK. One hundred nineteen in the Derby alone. But there's no workman's compensation in Kentucky for riders, right?

MR. HAIRE. No, sir. Almost. Almost.

MR. BROAD. And what's worse, we're facing a problem in Louisiana, which is a State without workers' compensation, where someone has introduced legislation that is moving through the Louisiana legislature that would also make it impossible for jockeys to sue for negligence. So they could neither recover for negligence, like if they got poor medical treatment, or get workers' comp.

MR. STUPAK. Other than this benefit you put together through your charitable organization to help raise some money for those people who are permanently disabled, has any other measures come forward since we've had our last hearing--I think the last one was in November--to help out the jockeys? Anything further to--any other States talk about workers' comp, try to run some legislation? Any other innovative ways to try to help you out?

MR. BROAD. Yeah. In the State of Ohio, several of the tracks actually went out and created--under a kind of law sort of unique to Ohio--which allows independent contractors to buy workers' comp on themselves, and a couple of Ohio tracks created a program in which they assisted the jockeys in purchasing the insurance and basically signed an agreement that they would pay the premium.

MR. STUPAK. Who'd pay the premium, the tracks?

MR. BROAD. The tracks.

MR. STUPAK. So would it be the regular riders, or if Mr. Velazquez came and rode in Ohio, would he be covered under that ride, or only those regularly riding?

MR. BROAD. It would be anyone who rides there, I believe.



MR. VELAZQUEZ. That's the problem. I don't think we're completely secure on that yet.

MR. HAIRE. My understanding is they do have to sign up when they do come in to ride; they have someone that's waiting to sign them up.

MR. STUPAK. Ohio tried. What happened? Did it work?

MR. BROAD. It seems to be working. Listen, we'll take it any way we can get it. I mean, at this stage if we can get people covered for workers' comp--because even with \$1 million of insurance benefits, if you're in an accident and you're a quadriplegic, for example, you can get to \$1 million and blow through \$1 million of healthcare coverage in the first year or so. And workers' comp covers you for the loss of income and so forth and gives you lifetime medical care. So it's far superior.

MR. STUPAK. Let me ask you this: You had the Kentucky Derby, and Kentucky doesn't have any kind of workers' comp for the riders. What do you have next, Preakness? Preakness, do they have workers' comp there? And in Belmont. So the only big one left is the Kentucky Derby we have to get.

I have no further questions, Mr. Chairman.

MR. WHITFIELD. Four or five States have workers' comp programs.

MR. BROAD. Mandated.

MR. SAUMELL. New Jersey, New York, Maryland.

MR. HAIRE. California and Ohio.

MR. BROAD. And California since 1940.

MR. WHITFIELD. Right. And this is a pretty old sport.

MR. BROAD. Yeah.

MR. WHITFIELD. There's not a lot of fast action on this.

Well, listen, thank you all so much. And we look forward to maintaining contact with you as we move forward. And if there's any additional information you think would be helpful to us, we would appreciate your letting us know.

And I would just ask one other question, Mr. Broad. Do you have any current information on the law enforcement investigation, Federal or State or local, as it relates to Mr. Gertmenian?

MR. BROAD. I believe that the local police department has deferred to the FBI. The FBI is continuing its investigation. Beyond that, I don't know the state of their investigation or how far they've gotten or what more they need. Every time they ask for information, we give it to them; and we have supplied them, for example, with computers that we've received so that they can do analysis of the computers and that sort of thing; but we don't know whether they're close to--

MR. WHITFIELD. Okay.

MR. BROAD. --the end or whatever.

MR. WHITFIELD. Okay. Well, thank you all very much.

MR. STUPAK. Thank you very much.

MR. WHITFIELD. This time I'd like to call our second panel, which includes Ms. Rose Mary Williams, who is the Director of Racing for the Mountaineer Race Track & Gaming Resort in West Virginia.

And, Ms. Williams, thank you very much for being here today. I'm sorry that we felt like a subpoena was necessary, but we genuinely appreciate your being here. Now, I know that we wanted you to be here probably more than you wanted to come. So I don't know if you have an opening statement that you would like to make or--

MS. WILLIAMS. No, sir. I'm just here to answer your questions.

MR. WHITFIELD. All right. Well, then. As you know, this is an Oversight and Investigations hearing, and it is our policy to take testimony under oath. And, of course, under the rules of the House and the rules of this committee, you are entitled to be represented by legal counsel. And do you have legal counsel here today?

MS. WILLIAMS. Yes, I do, sir.

MR. WHITFIELD. And who is that?

MS. WILLIAMS. Mr. Stan Brandd.

MR. WHITFIELD. Mr. Stan Bran. Okay. And he will not be testifying, but will be giving you legal advice. So if you would stand, I would like to swear you in at this time.

[Witness sworn.]

MR. WHITFIELD. Thank you very much. Ms. Williams, first of all, we'd like to ask this question. The earlier panel referred to and said that 31 percent of all accidents on racetracks in the country occurred at Mountaineer last year. Is that accurate, or do you have any comment on that?

MS. WILLIAMS. I do not know that that is accurate. I will comment that Mountaineer runs more races than any track in the country. We run 10 races a day. We run about 232 days a year. A lot of tracks only run a 30-day meet.

MR. WHITFIELD. So you run 10 races a day, 232 days a year.

MS. WILLIAMS. Approximately, yes.

MR. WHITFIELD. Okay. Now, what about the comment that the Mountaineer track is below the standards of most other racetracks from a safety issue? Do you have a comment about that?

MS. WILLIAMS. I don't know where that's coming from. I know that right around 2000, we redid our track down to the base. We put in a new limestone base, and we resurface every year.

MR. WHITFIELD. How many accidents occurred at Mountaineer track last year?

MS. WILLIAMS. I don't know that off the top of my head, but I can get that information for you.

MR. WHITFIELD. But you are the Director of Racing.

MS. WILLIAMS. Yes, I am.

MR. WHITFIELD. Whose responsibility is it to keep up with those numbers?

MS. WILLIAMS. That actually goes through our legal department.

MR. WHITFIELD. Well, would you provide the committee with the number of accidents that occurred on the track last year?

MS. WILLIAMS. I sure will.

MR. WHITFIELD. Okay. Now, if a horse goes down, is euthanized on the track, is a necropsy performed on the horse?

MS. WILLIAMS. Not that I'm aware of. That falls under the West Virginia Racing Commission and the State vet.

MR. WHITFIELD. So the track does not have the authority to do a necropsy if it decides to do so?

MS. WILLIAMS. No, sir. It goes through the State veterinarian. He's in control of that.

MR. WHITFIELD. And no necropsy is performed?

MS. WILLIAMS. Not that I'm aware of.

MR. WHITFIELD. You would be aware of it, though, if it was on your track?

MS. WILLIAMS. If I was paying the bill, absolutely I would be aware of it.

MR. WHITFIELD. And you are not paying any bills?

MS. WILLIAMS. No, I'm not.

MR. WHITFIELD. And what do they do with the carcass of a horse that is euthanized on the track?

MS. WILLIAMS. It is taken to a landfill, I believe.

MR. WHITFIELD. Okay. Because I think the necropsies should be done because you can often tell what caused the accident. Would you agree with that?

MS. WILLIAMS. I agree with that.

MR. WHITFIELD. Okay. Now, who negotiates the simulcast contract for Mountaineer?

MS. WILLIAMS. For the exports?

MR. WHITFIELD. Yeah.

MS. WILLIAMS. That would be Debbie House.

MR. WHITFIELD. Okay. Now, the horsemen's group under the Interstate Horse Racing Act within the State of West Virginia, is that the HBPA or is that TODLA or--

MS. WILLIAMS. That's HBPA.

MR. WHITFIELD. HBPA. And do you know what amount of money they receive each year for their administrative fee for approving the simulcast contract?

MS. WILLIAMS. On the simulcast race, they get half of the agreed-to rate.

MR. WHITFIELD. And what is the agreed-to rate?

MS. WILLIAMS. It can vary.

MR. WHITFIELD. Is it around 2 or 3 percent?

MS. WILLIAMS. Yeah. It's as low as 2-1/2 to 3.

MR. WHITFIELD. And do you know approximately the dollar figure for that each year?

MS. WILLIAMS. Not off the top of my head, I do not.

MR. WHITFIELD. Would you provide the committee with that exact number?

MR. WHITFIELD. Do you have any idea what the number is?

MS. WILLIAMS. Just for the simulcast alone?

MR. WHITFIELD. Yeah.

MS. WILLIAMS. No, I do not.

MR. WHITFIELD. Okay. Well, we would ask you to provide that to the committee.

MS. WILLIAMS. I will.

MR. WHITFIELD. Now, who owns Mountaineer Race Track?

MS. WILLIAMS. It is owned by MTR Gaming.

MR. WHITFIELD. MTR Gaming? And is that a West Virginia corporation or a Delaware or what?

MS. WILLIAMS. I think it was incorporated in Delaware.

MR. WHITFIELD. Delaware.

And how many tracks does MTR own?

MS. WILLIAMS. We own Scioto Downs, Mountaineer, Jackson Harness--we're 90 percent in Jackson Harness. We have the license to build Presque Isle Downs in Erie, Pennsylvania, and North Metro in Minneapolis, Minnesota.

MR. WHITFIELD. So a total of how many tracks?

MS. WILLIAMS. It will be five when everything's up.

MR. WHITFIELD. Five. And is MTR a publicly traded company?

MS. WILLIAMS. Yes, it is.

MR. WHITFIELD. And who's the Chairman?

MS. WILLIAMS. Ted Arneault.

MR. WHITFIELD. Ted Arneault. Is that A-R-N-O-U--

MS. WILLIAMS. A-R-N-E-A-U-L-T.

MR. WHITFIELD. Okay. And at this time how much insurance does MTR or Mountaineer provide for jockeys that might be injured on the track in an accident?

MS. WILLIAMS. Currently it's \$1 million.

MR. WHITFIELD. A million dollars. And when did that become effective?

MS. WILLIAMS. I believe it was at the end of 2005.

MR. WHITFIELD. Okay. So any jockey that's--is there any kind of deductible for the jockey, or is he covered from first dime spent?

MS. WILLIAMS. No, sir. There's no deductible.

MR. WHITFIELD. Okay. Okay. And does Mountaineer pay these image payments to the Jockeys' Guild that was referred to earlier?

MS. WILLIAMS. No, sir. We do not.

MR. WHITFIELD. Do not. Some tracks evidently pay that, and some do not. How is it determined who pays it and who does not?

MS. WILLIAMS. It was done through an agreement with the Thoroughbred Racing Association, the TRA, and members of the TRA agreed to that, from my understanding. There was a contract, I believe.

MR. WHITFIELD. A contract between, or an agreement between the tracks and the TRA.

MS. WILLIAMS. And TRA.

MR. WHITFIELD. And so not every track in the country entered into that agreement, I take it.

MS. WILLIAMS. Not every track is a member of the TRA.

MR. WHITFIELD. Okay. Are you all a member of the TRA?

MS. WILLIAMS. No. We are a member of the NTRA.

MR. WHITFIELD. Oh, you are a member of the NTRA. That's the National Thoroughbred Racing Association?

MS. WILLIAMS. Yes, sir.

MR. WHITFIELD. And NTRA, what is that?

MS. WILLIAMS. National Thoroughbred Racing Association. The other one is the Thoroughbred Racing Association.

MR. WHITFIELD. Okay. So the NRA--National Thoroughbred Racing--I mean, National Racing Association is an association of racetracks?

MS. WILLIAMS. That's correct.

MR. WHITFIELD. And the NTRA is the one that D.G. Van Clief is the President of; is that correct?

MS. WILLIAMS. Yes. I think he just resigned, but--

MR. WHITFIELD. But this payment for images of jockeys is made with, through the agreement with the NRA?

MS. WILLIAMS. The TRA.

MR. WHITFIELD. NTRA.

MS. WILLIAMS. The TRA.

MR. WHITFIELD. The TRA.

MS. WILLIAMS. I think that agreement has lapsed. I'm not sure on that.

MR. WHITFIELD. Okay. But you all don't make that payment and do not feel that you're legally obligated to make the payment?

MS. WILLIAMS. We have never been a member of TRA, not that I'm aware of.

MR. WHITFIELD. Okay. Well, I would ask you to provide the committee with the dollar amount paid to the horsemen's group and the number of accidents on the track from the year 2000 through 2005, and the number of horses euthanized on the track.

MS. WILLIAMS. Okay.

MR. WHITFIELD. Thank you.

At this time I recognize the gentleman from Michigan Mr. Stupak.

MR. STUPAK. Thank you, Mr. Chairman.

Ms. Williams, how long have you been an employee of MTR?

MS. WILLIAMS. Twenty-two years. I'm sorry, it's been longer than that. It's been about 27.

MR. STUPAK. And how long have you been Director of Racing at Mountaineer?

MS. WILLIAMS. Since 1997.

MR. STUPAK. So when the previous panel testified that 31 percent of all accidents occurred in 2000--31 percent of all accidents of jockeys in 2000 occurred at Mountaineer, you dispute that?

MS. WILLIAMS. I don't know that for sure.

MR. STUPAK. Okay. You will check that and get it back to us?

MS. WILLIAMS. Yes, I will.

MR. STUPAK. Okay. You have a packet of documents there, the book there. Let me have you go to some selected pages from the transcript of the hearing held on November 17. This would be Exhibit Number 1. There should be two pages there, page 71 and page 90. Do you have them?

MS. WILLIAMS. Yes, I do.

MR. STUPAK. Okay. Will you read the excerpts on those pages out loud, please?

MS. WILLIAMS. Mr. Stupak: "Okay. Did Mountaineer turn down the insurance policy from AIG was my understanding from the testimony earlier?

Ms. Williams: "No, sir."

Mr. Stupak: "Was \$100,000 being too expensive?"

Ms. Williams: "No, sir. We have \$100,000."

Mr. Stupak: "Okay. Did you turn down the offer--the offer was to go to \$1 million, and you guys turned that down."

Ms. Williams: "We actually went back to our broker and asked for them to look at it, and they would not quote us a price on that."

MR. STUPAK. "Was that AIG?"

"No, it wasn't."

MR. STUPAK. Okay. And then page 90, if you would, please.

MS. WILLIAMS. Mr. Stupak: "Okay, Ms. Williams. Just two more questions, ma'am. Do you think Mountaineer should have a million-dollar policy for jockeys? Do you think they should?"

Ms. Williams: "As I said before in my testimony, I said we went to the broker and asked them about the million dollars, and they wouldn't quote us on that."

"Why wouldn't they quote you on that?"

Ms. Williams: "I can't answer that. I don't know."

MR. STUPAK. Okay. Do you have any reason to believe that these are not accurate transcripts of the hearing we had on November 17 reflecting your answers?

MS. WILLIAMS. No. I believe they're accurate.

MR. STUPAK. Okay. Turn to the document marked as Exhibit Number 5, if you would. And it's a fax memorandum dated February 16, 2005, from John Eunick of Johnson and Anton insurance brokerage firms to Sandra L. Brokaw, legal assistant for Mountaineer, with a carbon copy to you as Director of Racing at Mountaineer Park, is it?

MS. WILLIAMS. Yes, it is.

MR. STUPAK. Could you please read that e-mail?

MS. WILLIAMS. "With regard to your memorandum as to the jockeys accidental insurance coverage, please find attached copy of the loss runs at Mountaineer Park, Inc. Kindly provide a quote from Mountaineer Park, Inc., at your earliest convenience, and return the same to me via fax at (304) 387-8306 or by mail: Legal Department, Mountaineer Park, Inc., P.O. Box 358, Chester, West Virginia 26034."

MR. STUPAK. Okay. Now, please find the fax cover sheet that's in Exhibit Number 6, dated 2 days later, February 18, 2005; and it's to you, Rose Mary Williams, slash, Sandra Brokaw. And the memo reads, "I usually work with e-mails. Sorry for the handwriting. It closes your proposal. Call me at my cell anytime to discuss. It will be the entire weekend." Is that how that reads?

MS. WILLIAMS. Yes, it does.

MR. STUPAK. Okay. And after that, there's a document still in 6, because this was attached to the fax sheet, titled, A Proposal of On-Track Accident Insurance for Mountaineer Park, Inc., dated February 18, 2005, attached to the fax; is that correct?

MS. WILLIAMS. That's correct.

MR. STUPAK. And before testifying today, I take it you've seen that 2000--excuse me--February 18, 2005, proposal?

MS. WILLIAMS. I actually saw this when the legal department brought it over when they prepared the statement that was sent in to you just recently.

MR. STUPAK. So is it your testimony you did not see it before testifying in November?

MS. WILLIAMS. I didn't recall seeing this. It went to the legal department. I believe there was conversation about it.

MR. STUPAK. Why would it go to the legal department if it's addressed to you?

MS. WILLIAMS. Because that's where it was faxed to, and Sandra Brokaw is in the legal department.

MR. STUPAK. Okay. Do you work in the legal department?

MS. WILLIAMS. No, I do not.

MR. STUPAK. (304) 387-8306, whose fax is that?

MS. WILLIAMS. The legal department.

MR. STUPAK. And that fax machine is located in the legal department?

MS. WILLIAMS. Yes, I believe it is.

MR. STUPAK. So Ms. Brokaw then, since she's a legal assistant, would she have brought that proposal to you?

MS. WILLIAMS. I don't know that for sure.

MR. STUPAK. Would Ms. Brokaw know that you had inquired about this proposal?

MS. WILLIAMS. I don't believe it was me that inquired about it. I believe it was Helen Brancazio from the legal department. I gave her John Eunick's name after we met at a conference.

MR. STUPAK. Okay. So who did you tell then to contact Mr. Eunick if you gave him the name?

MS. WILLIAMS. Helen Brancazio.

MR. STUPAK. Okay. So you told that to Helen. Does Sandra work for Helen?

MS. WILLIAMS. Yes, she does.

MR. STUPAK. Is Sandra Brokaw still working for Mountaineer Park?

MS. WILLIAMS. Yes, she is.

MR. STUPAK. And is her job position still legal assistant?

MS. WILLIAMS. Yes, it is.

MR. STUPAK. So if Sandra received this, then she would have brought it to Helen; is that your position?

MS. WILLIAMS. It would have gone to Helen first, yes.

MR. STUPAK. Okay. So after questioning you on November 17, 2005, did you ever go back and inquire from Sandra or Helen whether a proposal ever came from AIG?

MS. WILLIAMS. I did on May the 2<sup>nd</sup>, I believe it was.

MR. STUPAK. So like 1 week ago?

MS. WILLIAMS. I'm not sure exactly when it was. It was when we sent in additional information.



MR. STUPAK. So did you receive the questions Mr. Whitfield and myself wrote to you on your testimony?

MS. WILLIAMS. Yes.

MR. STUPAK. Those questions, then, make you interested in why we'd ask about AIG?

MS. WILLIAMS. And I believe that's the time I went back to her.

MR. STUPAK. Okay. When did you receive those questions from us; do you know?

MS. WILLIAMS. I don't know offhand.

MR. STUPAK. Do you have it in front of you there? You or your attorney have those questions?

MS. WILLIAMS. They're here, but there's no date on it.

MR. STUPAK. Well, it appears that your response to questions posed by me arrived on--I sent them to you in November--looks like we received them on or about December 20. So to answer these questions from us, you never asked about AIG, you never saw this proposal, your first testimony the first time you saw it was May 2, like recently?

MS. WILLIAMS. I'm sorry. I misspoke on that. I was looking at this memo that I have, and it's dated that day. The first time we talked about AIG was when--

MR. STUPAK. Was that the hearing November 17 I asked you specifically about AIG?

MS. WILLIAMS. You asked me specifically about the broker that we were with.

MR. STUPAK. Okay. Go ahead.

MS. WILLIAMS. And then --

MR. STUPAK. Let's go back to page 71, the testimony you read. I asked you about specifically about AIG, page 71. I think that was Exhibit 1. Remember you read it for us?

MS. WILLIAMS. Yes, I did.

MR. STUPAK. Didn't Mountaineer turn down the insurance policy from AIG--that was my understanding from testimony earlier--and you said no. So how did you know then on November 17--you didn't turn down the proposal from AIG, but yet you are telling us you didn't know the proposal existed until May 2?

MS. WILLIAMS. When you were talking, I thought you were referring to AIG as the insurance that was covering everybody. Our insurance was with Mather & Co. The \$100,000 was with Mather & Co., a different broker.

MR. STUPAK. But you knew who I meant when I mentioned AIG because, according to your testimony here today, you actually gave Mr. Eunick's name, who works for AIG, right--

MS. WILLIAMS. That's correct.

MR. STUPAK. --to your staff.

MS. WILLIAMS. I gave it to the legal department.

MR. STUPAK. And that was before November 17, 2005?

MS. WILLIAMS. I believe it was.

MR. STUPAK. Because they solicited a proposal in February of 2005, some 9 months earlier.

MS. WILLIAMS. Like I said, I met him at a conference.

MR. STUPAK. Okay. So your testimony here today is this proposal from AIG you never saw until May of 2006?

MS. WILLIAMS. No. I saw this when Helen prepared the answers to send back on the timeline on insurances.

MR. STUPAK. So would that have been on the 16<sup>th</sup>? Because that's when they sent those questions, request for a proposal of increased track coverage.

MS. WILLIAMS. Yes. It's whenever they responded to those questions.

MR. STUPAK. And then Mr. Eunick here responded, according to documents before us here, 2 days later, right?

MS. WILLIAMS. I saw the AIG proposal when Helen Brancazio submitted the information to this committee.

MR. STUPAK. When they submitted to this committee.

Okay. Let's go back to Exhibit Number 5, February 16, 2005, from the Mountaineer Race Track. This is John Eunick. Okay. It's from Sandra Brokaw. Did you ever see this?

MS. WILLIAMS. Not that I'm aware of. Not that I can remember.

MR. STUPAK. Okay. Lost run history. Where would Sandra Brokaw get that?

MS. WILLIAMS. From Mather & Co.

MR. STUPAK. Mather & Co., that's your insurance company, right?

MS. WILLIAMS. That's our broker.

MR. STUPAK. Okay. That's your broker. All right.

So for over a year, probably about 15 months, there's a proposal, and you don't know anything about it, even though you're copied that we're submitting a proposal for AIG in February 16, 2005?

MS. WILLIAMS. Like I said again, I'm not sure that I saw this proposal. If I did, I don't remember it. And it wasn't for over a year. We started negotiating again with AIG at the end of the year.

MR. STUPAK. The end of what, 2005?

MS. WILLIAMS. Yes.

MR. STUPAK. Well, when would your policy with Mather have expired?

MS. WILLIAMS. It would have expired at the beginning or the end of 2004.

MR. STUPAK. 2004?

MS. WILLIAMS. Yes.

MR. STUPAK. When did Gary Birzer get hurt?

MS. WILLIAMS. He got hurt in July of 2004.

MR. STUPAK. And there was no policy in effect then?

MS. WILLIAMS. Yes, sir. There was.

MR. STUPAK. There was? Was that with Mather?

MS. WILLIAMS. That was with Mather.

MR. STUPAK. Okay. And Gary got hurt in June; is that correct?

MS. WILLIAMS. That's correct. July.

MR. STUPAK. Hurt in July 2004, and Mather's insurance ran until when?

MS. WILLIAMS. I'm not sure on that. I would expect it would have expired at the end of 2004, the beginning of 2005. Director of Racing, isn't part of your responsibility to see that the insurance is there?

MS. WILLIAMS. No. That is handled through our legal department.

MR. STUPAK. So what would you have to do with insurance then?

MS. WILLIAMS. What do--I'm not sure what you're asking.

MR. STUPAK. You're the Director of Racing, right?

MS. WILLIAMS. Yes, I am.

MR. STUPAK. You oversee it, the racing activities, correct?

MS. WILLIAMS. I oversee the racing activities, yes.

MR. STUPAK. And that would include providing benefits for the riders?

MS. WILLIAMS. No, sir. It does not.

MR. STUPAK. It does not? Do you have a job description?

MS. WILLIAMS. Yes, I do.

MR. STUPAK. Okay. Can you provide that to the committee?

MS. WILLIAMS. Yes, I can.

MR. STUPAK. Okay. If you have nothing to do with insurance, why would you be carbon copied on February 16, 2005? Why would Mr. Eunick, who you've met at a conference, make the fax cover directly to you with a slash to Sandra Brokaw? Why would these other people assume you had something to do with insurance, including your own legal assistant Sandra Brokaw?

MS. WILLIAMS. I don't think Sandra did. I think Mr. Eunick did--

MR. STUPAK. We know February 16, 2005, from John Eunick to Sandra, and she carbon copies you. Why would she think you needed to see this if you had nothing to do with it?

MS. WILLIAMS. It sounds like it's in regard to a memo that was sent from Keith Camberland on the jockey accidental insurance coverage to me.

MR. STUPAK. Exhibit Number 5, you're saying it's from who?

MS. WILLIAMS. It says, "with regard to your memorandum to Keith Camberland on the jockey accidental insurance coverage, please find the attached copy of the loss run Mountaineer Park, Inc."

MR. STUPAK. Okay. Carbon copied to who?

MS. WILLIAMS. It's carbon copied to me.

MR. STUPAK. Okay. Why would you receive it if you have nothing to do with insurance?

MS. WILLIAMS. I imagine because Sandra thought that it was because of the loss run.

MR. STUPAK. Okay.

MS. WILLIAMS. They do copy me in on the policies and things like that after they're--

MR. STUPAK. Right. So you've said. How about a Tamara Cronin, C-R-O-N-I-N. Cronin, am I saying that right?

MS. WILLIAMS. Yes, you are.

MR. STUPAK. Who is she?

MS. WILLIAMS. She is our PR director.

MR. STUPAK. Let me show you, if I may--do we have another copy? If not, we'll have this gentleman bring this down to you. Because you even talk about--let me read your quote. You're quoted. Tamara's head of Director of Public Relations, and you're being quoted right here.

"We recognize that jockeys are involved in a perilous sport, and that injuries are a possibility each time they ride." In fact, the gentleman right there is giving it to you. Stated December 20. This is a news release from Mountaineer.

"We recognize that jockeys are involved in a perilous sport, and that injuries are a possibility each time they ride," said Rose Mary Williams, the Mountaineer Director of Racing. "We are concerned about the current lack of coverage provide by the Jockeys' Guild and want to make every effort to ensure that the jockeys and their families have disability protection in the event of catastrophic injury."

So it sounds like you know a little bit more about insurance than what you're telling this committee, or subcommittee.

MS. WILLIAMS. Well, after Gary's accident, who wouldn't be concerned? I mean, we are concerned about--

MR. STUPAK. Exactly.

MS. WILLIAMS. --catastrophic accidents.

MR. STUPAK. And 7 months later a fax comes to you, addressed to you as a prime person with a 15 page proposal. And if you're so concerned after Gary's accident, you never paid any attention to it, you're telling this committee?

MS. WILLIAMS. I'm not saying that.

MR. STUPAK. Okay. What are you saying then?

MS. WILLIAMS. I'm saying that I'm not sure that I saw this proposal. I know that when I talked to Helen, she said that she was working on that proposal; she was talking to John Eunick. John Eunick told her that there was an agreement being talked about with the NTRA over the insurance.

MR. STUPAK. Right. But you're concerned about your riders; therefore, you want to make sure they're covered. How about before you came to testify on November 17, 2005. Did you talk to Sandra about insurance coverage for riders?

MS. WILLIAMS. I've talked to Helen about it.

MR. STUPAK. Okay. Not Sandra, just Helen?

MS. WILLIAMS. Yes.

MR. STUPAK. You knew November 17 insurance would be something we would ask about? Did you not anticipate those questions from this subcommittee?

MS. WILLIAMS. Yes, I did.

MR. STUPAK. So you never made any inquiry to see if you had any insurance then on November 17?

MS. WILLIAMS. The inquiries I made were about our current--at that time was our current coverage with the broker, Mather & Co., and the \$100,000 and why they would not increase that coverage, because Helen had gone to them and asked them for an increase.

MR. STUPAK. Okay. Does Helen report to you, or does she--

MS. WILLIAMS. No. She's our in-house counsel.

MR. STUPAK. Well, if you didn't know about this proposal, why did you testify then when I asked you specifically about AIG, and I asked if it was too expensive, you said, "no, sir, we have 100,000." And I said, "but did you--the offer was to go to a million, and you turned it down." And you said, "we actually went back to our broker and asked for them to look at that, and they would not quote us on that." And I said, "was that AIG"; and you said, "no, it wasn't." So who's your broker then when you testified on November 17 then?

MS. WILLIAMS. Mather & Co.

MR. STUPAK. So did Mather provide insurance through 2005 for Mountaineer?

MS. WILLIAMS. Yes, they did.

MR. STUPAK. In the form of \$1 million?

MS. WILLIAMS. No, \$100,000.

MR. STUPAK. Just that \$100,000. Okay. And Mather would not quote you on more than \$100,000?

MS. WILLIAMS. That's my understanding. That's what Helen Brancazio's told me.

MR. STUPAK. And you had no idea anyone's inquired about any other insurance company, even when I asked you about AIG?

MS. WILLIAMS. I don't know for certain that I have any knowledge of receiving that letter. I know that I went to AIG--John Eunick when we were at a conference, and we talked about insurance. I asked him to get ahold of us on providing coverage.

MR. STUPAK. And that was in February, obviously, when you contacted on both coverage, someone did, on behalf of Mountaineer?

MS. WILLIAMS. I don't know the exact date. All I know, I was at a conference when we spoke.

MR. STUPAK. Sure. Well, then, why were you so sure then on page 71 when I asked if it was AIG, and you said, no, it wasn't?

MS. WILLIAMS. Because our broker is Mather & Co.

MR. STUPAK. Okay. Okay. All right. So who is the individual or entity at Mountaineer that makes decisions on insurance?

MS. WILLIAMS. Helen Brancazio.

MR. STUPAK. And you said you're not her supervisor, or she doesn't report to you?

MS. WILLIAMS. No, sir. She does not.

MR. STUPAK. Would she consult with you on insurance issues?

MS. WILLIAMS. We may have talked on occasion.

MR. STUPAK. Well, how about after Gary Birzer's accident, did you talk to her then?

MS. WILLIAMS. Yes. We talked about the coverage that was available to Mr. Birzer.

MR. STUPAK. So it's your testimony here today, the only insurance you knew you had on November 17 was \$100,000, and that was from Mather?

MS. WILLIAMS. The only insurance coverage that Mountaineer had on jockeys on November 17 was from Mather & Co.

MR. STUPAK. And you had no knowledge of any quotes or requests from any insurance other than Mather about any coverage for \$1 million or more?

MS. WILLIAMS. Not that I can remember.

MR. STUPAK. So you may have, but you just can't remember it today?

MS. WILLIAMS. I don't remember that.

MR. STUPAK. Would you have taken notes while you were discussing these matters with Helen or Sandra?

MS. WILLIAMS. Not necessarily.

MR. STUPAK. Okay. I have no further questions, Mr. Chairman.

MR. WHITFIELD. Ms. Williams, if the jockeys or representative from the jockeys came to you with an issue relating to safety on the track, what would be the general procedure that you as Director of Racing would take at that point?

MS. WILLIAMS. We have a committee formed that meets every--I believe they switched it to Saturdays now. They meet in the jockeys' room. It's the track superintendent, the HBPA president, and it's two of the representatives from the jockeys' colony. And they meet, and there's documentation of those meetings.

MR. WHITFIELD. And you would discuss at that time any issue that the jockeys may have raised regarding a safety issue?

MS. WILLIAMS. That's correct. They meet, and they discuss that. And then if there's any problems, or if they want the track watered more, they relay that to the track superintendent, and it's followed through.

MR. WHITFIELD. And do you attend those meetings?

MS. WILLIAMS. No, I do not.

MR. WHITFIELD. And do you get a report of those minutes?

MS. WILLIAMS. I get a copy of the minutes.

MR. WHITFIELD. Do you normally read them?

MS. WILLIAMS. Yes, I do.

MR. WHITFIELD. What are some of the issues that have been raised, say, in the last 5 or 6 months.

MS. WILLIAMS. Some of them have been the water issue, jockeys wanting more water when horsemen don't. There's been an issue, they feel there's an uneven spot in the track. They bring that to our attention. A lot of the times we--some of the jockey colony doesn't even show up for the meeting, or the HBPA representative doesn't show up for the meeting, and that's documented, too.

MR. WHITFIELD. Okay. What about security at the track from the perspective of--I'm assuming that in West Virginia certain drugs are allowed to be administered to horses at particular times, and others are disallowed.

What steps does the track take to ensure that those State regulations are adhered to?

MS. WILLIAMS. We don't. That falls under the West Virginia Racing Commission, and they have an inspector on site. They have three stewards and a State veterinarian.

MR. WHITFIELD. So the racetrack does not have any legal obligation to do anything to make sure that drugs administered to horses comply with State law?

MS. WILLIAMS. No. That falls under the Racing Commission's umbrella.

MR. WHITFIELD. Okay. Now, I just want to ask you once again, you will provide us with a list, a number of all accidents, the year 2001 through 2005?

MS. WILLIAMS. Yes, sir.

MR. WHITFIELD. 2000, 2005. And we want to know the amount of the annual payment to the HBPA, pursuant to the simulcasting agreement, over the last 3 years.

MS. WILLIAMS. And do you just want that for export or export and import both?

MR. WHITFIELD. I want them both. I want the total paid, export and import.

MS. WILLIAMS. And live?

MR. WHITFIELD. And live.

MS. WILLIAMS. Okay.

MR. WHITFIELD. And broken down.

MS. WILLIAMS. We can do that.

MR. WHITFIELD. Right. And then one other question. Mr. Stupak was asking about how Helen--and I forgot how you pronounce her last name.

MS. WILLIAMS. Brancazio.

MR. WHITFIELD. What is her title?

MS. WILLIAMS. She's in-house legal counsel for Mountaineer.

MR. WHITFIELD. She is the in-house--

MS. WILLIAMS. Yes, sir.

MR. WHITFIELD. After Gary Birzer's accident, I'm assuming that someone with authority at the track met and decided to raise the policy from \$100,00 to a million? Didn't a million-dollar policy go into effect in December of 2005?

MS. WILLIAMS. Yes, it did.

MR. WHITFIELD. Okay. And what is the annual premium on that?

MS. WILLIAMS. It's over a half million dollars.

MR. WHITFIELD. Half million. Okay. But you have more races than any other track in the country?

MS. WILLIAMS. Yes, we do. I would say more than most tracks. I don't know that there's anybody else that has more.

MR. WHITFIELD. Okay. Okay. All right.

Do you have any anything else? Okay.

MR. STUPAK. Ms. Williams, were you aware that the Jockeys' Guild had no such supplemental insurance policy in place at the time Gary Birzer was injured?

MS. WILLIAMS. I don't think any of us were aware.

MR. STUPAK. I'm asking you though. You were?

MS. WILLIAMS. No, I wasn't.

MR. STUPAK. Your answer is no then? Okay.

Is it true that Mountaineer never paid any money from Mountaineer's revenues to the Guild as other tracks had for insurance policies?



MS. WILLIAMS. I'm not sure.

MR. STUPAK. Mountaineer never paid anything to the Guild, Jockeys' Guild?

MS. WILLIAMS. Not for insurance--I don't think anybody pays anything for insurance policies.

MR. STUPAK. Or how about media rents?

MS. WILLIAMS. No, sir.

MR. STUPAK. Okay. Has Mountaineer contributed any money to Gary Birzer as a result of his 2004 accident?

MS. WILLIAMS. We provided the \$100,000 in insurance, and we've done some fundraisers with jockeys and horsemen, and then we also built ramps at his house in West Virginia.

MR. STUPAK. Do you know what the total value of those payments or services has been to Gary Birzer?

MS. WILLIAMS. No, because I didn't see all the amounts going in. Like I said, we helped with some of the jockeys, raised some of the money, and the HBPA provided giveaway things and stuff like that.

MR. STUPAK. Who would be your immediate supervisor or boss?

MS. WILLIAMS. Ted Arneault. Edson Arneault.

MR. STUPAK. That's the Chairman of the Board?

MS. WILLIAMS. Yes.

MR. STUPAK. Did you ever discuss the AIG proposal with him?

MS. WILLIAMS. It was in, I believe, November of 2005 or early December. Right before we did sign up for the million-dollar coverage.

MR. STUPAK. Why would you be discussing it with him if you didn't have anything to do with insurance?

MS. WILLIAMS. It was brought to me through Helen, and I went to Ted with it.

MR. STUPAK. Okay. So if that was November of 2005 or early December, when did Helen come to you with this AIG proposal?

MS. WILLIAMS. It was around the same time.

MR. STUPAK. Before or after our hearing?

MS. WILLIAMS. After.

MR. STUPAK. Could you provide us the date of that meeting?

MS. WILLIAMS. Sure.

MR. STUPAK. Do you have a schedule you keep every day?

MS. WILLIAMS. Yes. A lot of the appointments.

MR. STUPAK. How about with Helen?

MS. WILLIAMS. No.

MR. STUPAK. You're a pretty small operation.

MS. WILLIAMS. We're all in the same area.

MR. STUPAK. Right. How many fax machines do you have there?

MS. WILLIAMS. I can't tell you offhand. There's quite a few.

MR. STUPAK. You have a small area but quite a few fax machines?

MS. WILLIAMS. Yes. Every office has a fax machine.

MR. STUPAK. What is your fax number?

MS. WILLIAMS. 304-387-8303.

MR. STUPAK. Okay.

Thank you, Mr. Chairman.

MR. WHITFIELD. I just have a few more questions. Then we will conclude for the day.

I want to make sure that we are talking about the same thing on this Interstate Horse Racing Act. Under the Interstate Horse Racing Act as a condition precedent to an agreement being finalized for simulcasting the horsemen's group, you would have to reach an agreement with the horsemen's group on that contract.

As you know, we are considering some legislation, and we are looking at the Interstate Horse Racing Act. How often do you actually pay the HBPA pursuant to the fee that they have for approving the contract? Are they paid monthly or yearly?

MS. WILLIAMS. Weekly.

MR. WHITFIELD. They are paid weekly.

MS. WILLIAMS. The money actually goes into the purse account.

MR. WHITFIELD. Into the purse account. Then they withdraw it from the purse account?

MS. WILLIAMS. I think they get 2 percent; 1.5 percent goes to their trust, and I believe some administration costs, and then the half percent stays with the HBPA. But they do have a trust fund for horsemen on the back side.

MR. WHITFIELD. Now, in Kentucky, that money for the horsemen on the back side comes through in-cash tickets. What happens to in-cash tickets in West Virginia?

MS. WILLIAMS. They actually go to the Racing Commission, and they're used for capital improvements at each facility.

MR. WHITFIELD. Okay. When you provide us that information on the amount of money that actually goes to the HBPA outside of the purses, their fee as a condition precedent, would you also just give us a detailed paragraph of exactly the way it works and how the amount that you pay to them weekly is calculated?

MS. WILLIAMS. Yes.

MR. WHITFIELD. Okay. Okay. With that, thank you, Ms. Williams for your testimony. And with that, the hearing is concluded. The record will stay open for 30 days, and the documents, without objection, will be entered into the record. The record will stay open for any follow-up questions, and we would, if we have those, we'll be getting those to you as well.

[The information follows;]

Ex. #	Description	Date
1	Relevant sections from Subcommittee's November 17, 2005, hearing transcript	11/17/05
2	Written testimony presented by Ms. Rose Mary Williams to the Subcommittee on November 17, 2005	11/17/05
3	Response from Ms. Williams to Questions Posed by Mr. Bart Stupak after November 2005 Hearing	12/20/05
4	Internal Memo from Mountaineer Park's General Counsel, Helen Brancazio, to Ms. Williams, re: insurance issues at Mountaineer	1/13/06
5	Request for proposal for increased on-track insurance coverage made by Ms. Williams and Sandra Brokaw of Mountaineer Park to John Unick of MOC Insurance Services	2/16/05
6	Proposal faxed by Mr. Unick to Ms. Williams and Ms. Brokaw offering increased on-track insurance coverage to Mountaineer Park, along with accompanying fax confirmation sheet	2/18/05
7	CNNMoney.com article: "Jockey abuse: Low pay, high risk, weak union"	5/4/06

TAB 1

THOROUGHBRED HORSE RACING JOCKEYS AND  
WORKERS: EXAMINING ON-TRACK INJURY IN-  
SURANCE AND OTHER HEALTH AND WELFARE  
ISSUES

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
OVERSIGHT AND INVESTIGATIONS  
OF THE  
COMMITTEE ON ENERGY AND  
COMMERCE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
FIRST SESSION

NOVEMBER 17, 2006

**Serial No. 109-62**

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1474 Mr. STUPAK. Okay. Didn't Mountaineer turn down the  
1475 insurance policy from AIG, was my understanding from the  
1476 testimony earlier?

1477 Ms. WILLIAMS. No, sir.

1478 Mr. STUPAK. As \$100,000 being too expensive?

1479 Ms. WILLIAMS. No, sir. We have \$100,000.

1480 Mr. STUPAK. Okay. But did you--the offer was to go to \$1  
1481 million and you guys turned that down?

1482 Ms. WILLIAMS. We actually went back to our broker and  
1483 asked for them to look at that and they would not quote us on  
1484 that.

1485 Mr. STUPAK. Was that AIG?

1486 Ms. WILLIAMS. No, it wasn't.

1951           Mr. STUPAK. Okay. Ms. Williams, just two more questions,  
1952   ma'am. Do you think Mountaineer should have a \$1 million  
1953   policy for jockeys? Do you think they should?

1954           Ms. WILLIAMS. As I said before and in my testimony, I  
1955   have said that we went to the broker and asked them about the  
1956   million dollars and they won't quote us on that.

1957           Mr. STUPAK. Why wouldn't they quote you on that?

1958           Ms. WILLIAMS. I can't answer that. I don't know.

**TAB 2**

House Energy and Commerce Committee  
Subcommittee on Oversight and Investigations Hearing  
“Thoroughbred Horse Racing Jockeys and Workers: Examining  
On-Track Injury Insurance and Other Health and Welfare Issues”

November 17, 2005

Testimony Submitted by Rose Mary Williams  
Director of Racing, Mountaineer Racetrack

My name is Rose Mary Williams and I am the Director of Racing at Mountaineer Racetrack in Chester, West Virginia. I began my career in racing in 1977 as a mutual clerk and have worked in racing ever since. I became director of racing in 1997. Mountaineer Racetrack is a mile-long thoroughbred track and has operated since 1951. By State statute, we race a minimum of 210 days per year. By contract with the Horsemen's Benevolent and Protective Association, we endeavor to race 232 days per year with ten races per day, or approximately 2,259 races per year. I am pleased to say that serious accidents are rare.

Gary Birzer's tragic accident happened at my track. But it could have happened at any racetrack in the country. While there has been no claim that the track was defective or improperly maintained, or that track conditions were a factor in causing this accident, it should be noted that, in horseracing, accidents can and do happen even at state-of-the-art facilities, though perfectly maintained, and under ideal conditions.

This is so because riding a racehorse is an inherently risky activity, no different than NASCAR racing, prize fighting, football, and other sports that entertain, amaze and delight us. During a race, thoroughbreds reach speeds of up to 40 miles per hour, and jockeys wear only a safety helmet and two-pound safety vest for protection. Jockeys, like

their counterparts in other sports, accept that risk because they love what they do, and because they are highly compensated. Many jockeys earn as much as \$500,000 per year.

From those earnings, they choose to pay dues and per mount fees into their Guild for the obvious reason: they expect that Guild to provide them protection by, among other things, purchasing and maintaining on-track injury insurance. I will leave to others the relationship between the jockeys and their Guild, the allegations that Dr. Gertmenian failed to inform the jockeys that the Guild had permitted the catastrophic insurance to lapse, and whether the insurance carrier should have notified the jockeys of the cancellation. I simply don't have first-hand knowledge that would be helpful to this Committee.

Consistent with industry custom, Mountaineer Racetrack maintains an on-track injury policy covering jockeys for up to \$100,000 per occurrence and exercise riders for up to \$25,000 per occurrence. Since May of 2000, Mountaineer Racetrack's insurer has paid more than \$1,000,000 in claims to some 89 individuals pursuant to on-track injury policies. Many of those claims were under \$1,000 and most were under \$10,000. Mr. Birzer was able to use this policy and in fact received \$100,000 in reimbursements.

Obviously, a \$100,000 policy is not sufficient for a catastrophic accident, but these policies are intended only to supplement the insurance the jockeys obtain through the Guild. It is expensive insurance. The premium is \$1,230 per race day and \$154 per training day. For 2004, Mountaineer Racetrack paid \$252,500 in premiums for on-track injury insurance. What is more, even at these premium rates there are few carriers willing to provide the coverage.



Likewise, West Virginia permits employers of trainers and jockeys engaged in thoroughbred racing to subscribe to and pay premium taxes into the state's workers' compensation fund (*See* WV Statutes, Section 23-2-1(b)(6)). Further, West Virginia's unredeemed pari-mutuel ticket law earmarks for a jockey's trust up to \$250,000 annually, specifically for health and disability benefits for active or disabled jockeys and their dependents (*See* WV Statutes, Section 19-23-13(b)(5)(C)). West Virginia law also provides that 1½% of the total amount distributed for racing purses be placed into trust to help defray the cost of medical and other expenses incurred by people whose primary source of income is derived from the racing, training and care of thoroughbred horses.

As a Director of Racing, I can offer some observations concerning what racetrack owners can do to make racing as safe as reasonably possible for jockeys, recognizing that the racetrack owner has no authority to do anything between the time the horses enter the gate and the end of the race. This is so because the conduct of racing itself is controlled by the state racing commission through its on-site personnel. What then can racetrack owners do before and after a race? Some examples are:

- Properly maintain and periodically resurface the racetrack;
- Provide a committee that includes a representative of the jockeys that has periodic meetings to discuss track conditions;
- Install safety rails and place light poles and other objects a safe distance (industry custom is ten feet) beyond the rails;
- Pad indoor paddocks, the chutes leading to the track, and the starting gates;

- Provide a comfortable jockeys' room with such amenities as sauna and hot tub;
- Provide a chaplain who is readily available to minister to the needs of jockeys and backside workers;
- Install appropriate lighting for night racing;
- Limit the number of turf races and require shoes that are less likely to make the surface unsafe;
- Provide appropriate ambulance and emergency medical personnel in case of an accident;
- Provide on-track injury insurance in accordance with industry custom, to the extent such insurance remains available.

It may seem self-evident, but I believe track safety and the welfare of those who work on-track should be, and in fact are, common goals of racetrack owners, horsemen, and jockeys and trainers. Taking these steps helps limit on-track accidents to those that cannot be prevented. Preventable accidents and the failure of the system to provide for the needs of injured participants, in addition to being tragic, are bad for business – all of our businesses.

On a personal note, I know Gary and Amy Birzer. Gary rode frequently at Mountaineer Racetrack. They are a nice family and my heart goes out to them.

## TAB 3

**Questions from the Honorable Bart Stupak & Answers from Ms. Rose Mary Williams, Director of Racing, The Mountaineer Race Track and Gaming Resort November 17, 2005, Subcommittee on Oversight and Investigations Hearing entitled: "Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury Insurance and Other Health and Welfare Issues".**

1. **Q:** Do you think that the horsemen and the track at Mountaineer have done what they should to help the Gary Birzer family with his medical and related expenses?

**A:** Mountaineer provided the \$100,000 insurance policy that was the industry standard at the time. We had no way of knowing that the Jockey's Guild had cancelled its catastrophic insurance policy, nor did anyone else in the country, until Gary's accident. We have supported those who have held fundraisers at the racetrack and all money that has been raised from those fundraisers has been sent to the Don MacBeth Memorial Fund with the request that it be directed to Gary's benefit.

2. **Q:** What was your total compensation including salary, bonus and benefits in 2004, the year that Gary Birzer was paralyzed?

**A:** My salary including benefits was \$162,930.71. I did not receive a bonus nor did I have medical insurance coverage from Mountaineer in 2004.

3. **Q:** In its 2004 10Q filing with the SEC, MTR Gaming Group did not break out its profit and loss statement by property but did state that it depends on Mountaineer for "the vast majority of its revenues." How much were Mountaineer's revenues and before-tax profits during calendar year 2004? Please include the slot revenue and profits in these calculations since MTR could not operate commercial level slots without providing the racing venue.

**A:** Mountaineer's total gross revenues for 2004 were \$296.1 million. Net revenues (after promotional allowances) were \$291.5 million. Gaming (Slot) revenues were \$258.7 million. Income before income taxes was \$40.2 million. Net income for Mountaineer's parent company on a consolidated basis was \$14.45 million. For additional information, please reference the 2004 Annual Report Managements Discussions and Analysis 2004 versus 2003, starting on page 34 of the 2004 10-K filing.

4. **Q:** What was the average daily purse in calendar year 2004?

**A:** The average daily purse distribution in 2004 was \$171,189.

5. **Q:** Do you pay about \$1,200 per race day for your \$100,000 on-track disability policy? If not, please provide the cost per racing day for such insurance.

**A:** We pay \$1,230 per race day for our \$100,000 on track accident policy.

6. **Q:** How much has MTR contributed to Gary Birzer's expenses?

**A:** We installed a wheelchair ramp at the Birzer's home which cost \$10,780, including materials and labor. We have also assisted with all fundraisers that horsemen and jockeys have conducted to benefit the Birzers.

7. **Q:** How would payment of Gary Birzer's expenses (up to \$1 million) impact the profit percentage at Mountaineer and/or MTR Gaming?

**A:** I am not an accountant and am not the person responsible for characterizing income expenses or other financial categories. Mathematically, however, paying an additional \$1 million of Gary's expenses would reduce MTR's net profit by 6.9%.

8. **Q:** Can you make or effectively recommend the level of accident insurance coverage to your corporate managers? If not, who in MTR is empowered to make that decision?

**A:** I have recommended an increase in the level of accident insurance to our management. We have been working with AIG for our 2006 policy and have recently agreed to a \$1,000,000 on-track accident insurance policy.

9. **Q:** Are your pari-mutuel clerks provided with either workers' compensation or health and disability insurance?

**A:** The pari-mutuel clerks are our employees and would be covered under our workers compensation. We pay for a part of the pari-mutuel clerks' health insurance and they also contribute. The pari-mutuel employees can purchase disability insurance.

10. **Q:** Mountaineer has races at night in the winter in the Appalachian Mountains. The tracks freeze and thaw and temperatures of 10 degrees are not uncommon. Why is it safe to race under these conditions?

**A:** We are not located in the Appalachian Mountains. We are located near Pittsburgh, Pennsylvania. We do race at night in the winter under a state of the art lighting system. If the horsemen, management or the riders feel it is unsafe to race they confer with the Stewards who determine if races should be cancelled. We are not the only track that has night races, Charles Town, Penn National and the Meadowlands run during the evening in the winter.

11. **Q:** Have you or anyone at Mountaineer that reports to you ever pressured a jockey that objected to track or weather conditions to ride anyway? Please detail.

**A:** I have never pressured a jockey to ride if that jockey objected on the basis of weather or track conditions. To my knowledge, no one who reports to me has done so either. The Stewards implemented cancellation procedures on March 16, 2001. In

the event of inclement weather or questionable track conditions the stewards will meet with representatives of horsemen, jockeys and management at 11:00 AM to determine if races can be run or should be cancelled. If the stewards determine the races could be run, any jockey who does not want to ride can take off his or her mounts with no penalty and any trainer can scratch his or her horse without any penalty. During the running of the races, any jockey wishing to take off his or her mounts shall contact the stewards to do so.

12. **Q:** Please provide the names and dates (approximate if necessary) of all insurance carriers or brokers that Mountaineer has contacted regarding on track accident insurance since January 1, 2004. Please include all information quoted formally or informally to Mountaineer regarding such insurance.

**A:** Please see attached memo on insurance contacts.

TAB 4

**MOUNTAINEER RACE  
TRACK & GAMING  
RESORT**

# Memo

**To:** Rose Mary  
**From:** Helen  
**CC:**  
**Date:** 1/13/2006  
**Re:** discussions with brokers

---

Our policy with Mather & Company (the TRA program) runs from January until December. For the policies in effect for January 2004 until December 2004, we began negotiating with Mather in December 2003. I do not recall contacting or discussing the on-track accident coverage with any other brokers for the 2004 coverage.

In year 2004, I remember asking Marsh (Mountaineer's insurance broker for general liability and property coverage) if there was on-track accident coverage available to us. I was informed that Marsh's program did not offer that type of coverage. I believe these conversations took place either in March or April 2004, while we were exploring programs for our general liability coverage. Bill Laborie of Marsh USA, Inc. from the Pittsburgh office is our contact.

In year 2004, John Unick contacted me regarding the AIG program for on-site accident coverage. I had a conversation with him regarding the jock's insurance. I believe this conversation took place in the middle of the year 2004. I cannot explain why I did not have additional conversations with Mr. Unick, but again, I was under the assumption that the jockeys had additional coverage through the Jockey's Guild John Unick's contact information is c/o Maroevich, O'Shea & Coghlan Johnson & Anton Insurance Brokerage.

In December 2004, I discussed increasing coverage with Mather & Co. They only offered the \$100,000 policy for the jockeys. However, we increased the coverage for the exercise riders from \$10,000 to \$25,000 for year 2005.

Sometime after the January 2005 renewal I contacted Mather and asked if we could increase the jockey's coverage. They told me they weren't offering increased premium levels. John Unick contacted me and he presented the AIG program to me in February 2005. He also told me that the NTRA was convening to discuss insurance issues. I waited to see if the NTRA was going to sponsor an insurance program for all member racetracks. In November John forwarded an insurance program proposal offering \$500,000 coverage and \$1 million coverage. I was also contacted by Chris Gibbs who was going to get me a quote from Lloyd's of London for an entire program or possibly a \$500,000 umbrella policy. As of today's date, I have not heard from him.

TAB 5

**FACSIMILE & MEMORANDUM**

DATE: February 16, 2005

TO: John Unick  
Johnson and Anton Insurance Brokerage

CC: Rose Mary Williams  
Director of Racing for Mountaineer Park, Inc.

FROM: Sondra L. Brokaw  
Legal Assistant for Mountaineer Park, Inc.

RE: Loss Run History - Mountaineer Park, Inc.

With regard to your memorandum to Keith Chamblin on the Jockey Accidental Insurance Coverage, please find attached a copy of the loss runs for Mountaineer Park, Inc. Kindly provide a quote for Mountaineer Park, Inc. at your earliest convenience and return the same back to me via facsimile @(304) 387-8306, or by mail, Legal Dept., Mountaineer Park, Inc., P.O. Box 358, Chester, WV 26034.

? ■ P.O. BOX 358 ■ CHESTER, WV 26034 ■ RACETRACK 304-387-8300 ■ WWW.MTRGAMING.COM

**LOSS RUNS**



TAB 6

**MOC Insurance Services**

Maroevich, O'Shea & Coghlan Insurance, Inc.  
 Johnson & Anton, Inc.  
 44 Montgomery Street, 17<sup>th</sup> Floor  
 San Francisco CA 94104  
 Ph. (415) 957-0600 - Fax (415) 957-0577  
 www.mocins.com  
 License No. 0589960

DATE: 2/18/05 NUMBER OF PAGES (including cover sheet) : 16

**FAX COVER SHEET**

TO: Rose Mary Williams / Sandra Brakew  
 FAX: 304-387-8306  
 FROM: John Patrick Luck  
 DIRECT LINE /EMAIL: junick@maroevich.com  
 RE: On-track accident proposal

**MESSAGE :**

*I usually work with email... sorry for the handwriting... enclosed is your proposal. Call me on my cell at 415-314-7477 anytime to discuss. It will be on the entire weekend.*

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## A Proposal of "On-Track" Accident

Insurance for

Mountaineer Park Inc.

February 18, 2005

Arranged by:

Maroevich, O'Shea and Coghlan  
San Francisco, CA



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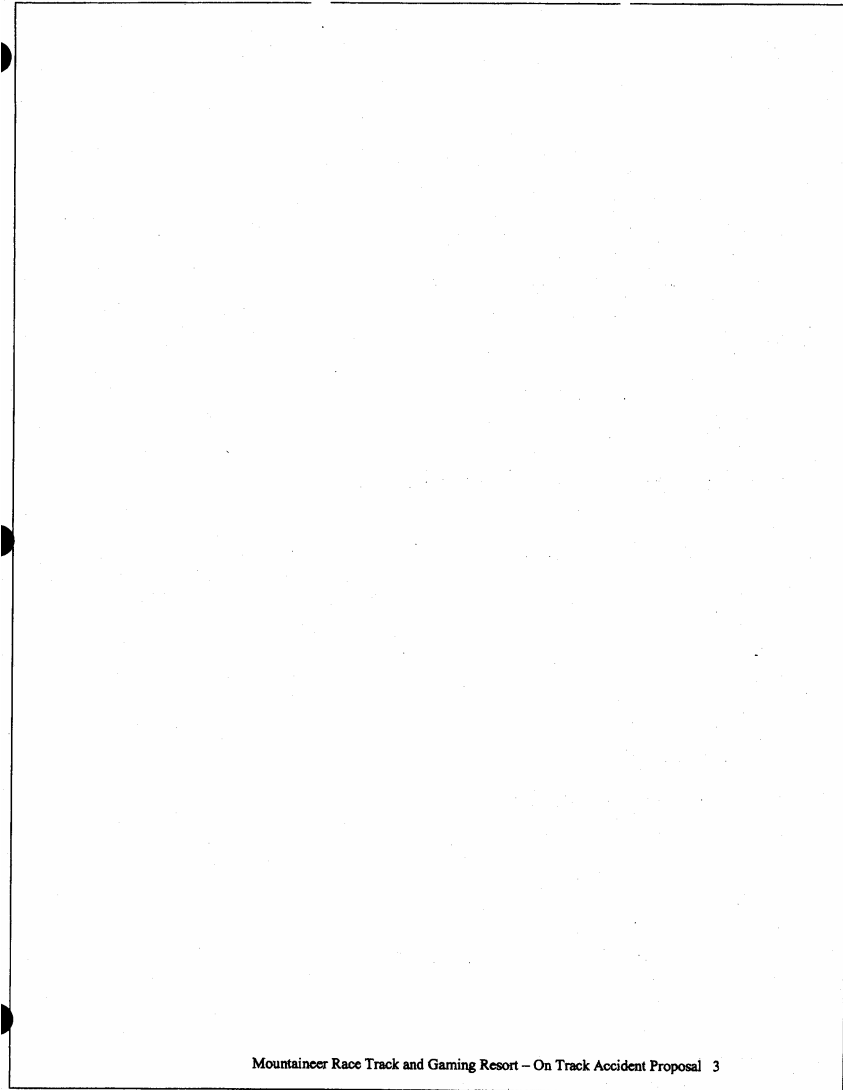
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### **American International Group, Inc. (AIG)**

- World Leader in insurance and financial services
- Nations largest writer of commercial and industrial insurance
  - 90,000+ employees / 130 Countries
    - Over \$600 Billion in assets
    - \$9.3 Billion in net income

### **Ratings**

- Standard & Poors.....AAA
- Moody's.....Aaa
- A.M.Best.....A++
- Financial strength to meet policyholder obligations  
A++

### **Accident & Health Division**

- Largest writer of A&H business worldwide - \$ 10 Billion

This Accident Insurance Program is being offered by National Union Fire Insurance Company, a member company of American International Group (AIG), the leading U.S. based international insurance organization and among the nation's largest underwriters of commercial and industrial insurance in the United States.

- Largest Domestic writer of A&H - \$ 900 Million
- Nine Regional Offices (Including Canada)

### **"On-Track" Accident Coverage**

**Master Policyholder:** Mountaineer Park Inc.

**Participating Organization:** All Race Track Facilities owned and operated by Mountaineer Park Inc.

**Insured Persons:** All licensed Jockeys for whom "On-Track" accident insurance program has been purchased by a Race Track Facility.

**Coverage:** Injury to an Insured at a "Covered Event" on the premises of a "Race Track Facility" and arising out of the course of his/her employment as a licensed Jockey.

**Benefits & Limits:**

**OPTIONS**

I II

Accidental Death & Dismemberment (Includes Loss of Use)	Up to \$50,000	Up to \$50,000
Paralysis (Quadriplegia, Triplegia/Paraplegia/ Hemiplegia/Uniplegia)	\$50,000 Max.	\$50,000 Max.
Accident Weekly Indemnity	\$200/Week 7 day Wait 104 Week Max.	\$200/Week 7 day Wait 104 Week Max.
Accident Medical Expense	\$500,000	\$1,000,000

**Rates and Premiums:****OPTIONS**

I      II

Rates per Race Day	\$1,938	\$2,200
--------------------	---------	---------

Total Premium (Based on 228 Race Days)	\$441,864	\$501,600
--	-----------	-----------

Premium Mode: Annual in advance  
 Effective Date: January 1, 2005\*  
 Policy Period: Three years\*\*  
 Proposal Validity: February 28, 2005

\* Subject to receipt of letter from Mountaineer Park Inc. confirming there are no known claims between January 1, 2005 and the date the Application is signed.

\*\* Rates, Terms and Conditions are subject to change at the end of each twelve month period.



## **"On-Track" Accident Coverage**

### **Benefits**

#### **Accidental Death & Dismemberment**

Principal Sum means the amount of insurance the Insured Person is covered for.

When injury directly results in any of the following losses within 365 days after the date of accident causing the loss, the Plan will pay in one sum the indicated percentage of the Principal Sum for:

For Loss of or Loss of Use of:

Life.....	The Principal Sum
Both Hands and Both Feet .....	The Principal Sum
Sight of Both Eyes.....	The Principal Sum
One Hand and One Foot .....	The Principal Sum
One Hand and Sight of One Eye.....	The Principal Sum
One Hand or One Foot .....	The Principal Sum
Speech and Hearing in both Ears.....	The Principal Sum
The Sight of One Eye.....	One-Half The Principal Sum
Speech or Hearing in Both Ears.....	One-Half The Principal Sum
Loss of hearing in one Ear.....	One-Half The Principal Sum
Each Finger or each Toe .....	2% (\$500 each accident)

If more than one Loss is sustained as a result of the same accident, only one amount, the largest, will be paid.

"Loss" shall mean, with reference to hand or foot, complete severance through or above the wrist or ankle joint; and with reference to sight of an eye, the entire and irrecoverable loss of sight thereof; and with reference to thumb or finger, severance through or above the metacarpophalangeal joint.

"Loss of Use" means complete and irreversible loss of functional, normal, or characteristic use of the arm, leg, hand, finger, toe, eye or ear because of: (1) complete and irreversible paralysis; (2) atrophy; or (3) an arthritic condition.

### Benefits

#### Paralysis

If an Injury to an Insured results, within 365 days of the date of accident that caused the Injury, in any one of the types of paralysis specified below, the Company will pay the percentage of the Principal Sum shown.

<i>Quadriplegia</i> .....	The Principal Sum
<i>Triplegia</i> .....	Three Quarters The Principal Sum
<i>Paraplegia</i> .....	One-Half The Principal Sum
<i>Hemiplegia</i> .....	One-Half The Principal Sum
<i>Uniplegia</i> .....	One Quarter The Principal Sum

"Quadriplegia" means the complete and irreversible paralysis of both upper and both lower limbs. "Triplegia" means the complete and irreversible paralysis of three limbs. "Paraplegia" means the complete and irreversible paralysis of both lower limbs. "Hemiplegia" means the complete and irreversible paralysis of the upper and lower limbs of the same side of the body. "Uniplegia" means the complete and irreversible paralysis of one limb. "Limb" means entire arm or entire leg.

## **"On-Track" Accident Coverage**

### **Benefits**

#### **Weekly Accident Indemnity**

If, as a result of an Injury, the Insured is rendered Totally Disabled within 90 days of the accident, the Company will pay a benefit after 7 day(s) of Total Disability due to that Injury in any one Period of Disability, retroactive to the first day of Total Disability in that Period of Disability. The benefit is payable so long as the Insured remains Totally Disabled due to that Injury in that Period of Disability.

If the Insured returns to perform the material and substantial duties of his or her occupation for any employer on a full or part-time basis, he or she may return to Total Disability status if: (1) the Insured has not been back to work for more than 30 days; and (2) the Insured is again Totally Disabled due to the same injury which caused the original Total Disability.

Periods of Total Disability separated by less than 30 consecutive days will be considered one period of disability unless due to separate or unrelated causes.

The benefit amount per week is \$ 200.

The Maximum Benefit period is 104 weeks.

#### **Definitions**

**Occupation** – means the occupation, job or work the Insured performed at the time of the accident causing the injury for which benefits are claimed under this policy.

**Period of Disability** – means a period of consecutive days of Total Disability.

**Totally Disabled/Total Disability** – means that the Insured is under the care of a Physician and unable to perform the material and substantial duties of his or her Occupation for any employer.

## **"On-Track" Accident Coverage**

### **Benefits**

#### **Accident Medical Expense**

If an Insured suffers an Injury that, within 104 weeks of the date of the accident that caused the Injury, requires him or her to be treated by a Physician, the Company will pay the Usual and Reasonable Charges incurred for Medically Necessary Covered Accident Medical Services received due to that Injury, up to the Maximum Amount per Insured for all Injuries caused by the same accident. This benefit is payable only for such charges incurred after the Deductible has been met and within 104 weeks after the date of the accident causing that Injury.

**Covered Accident Medical Service(s)** means any of the following services:

1. Hospital semi-private room and board (or room and board in an intensive care unit); Hospital ancillary services (including, but not limited to, use of the operating room or emergency room); or use of an Ambulatory Medical Center;
2. services of a Physician or a registered nurse (R.N.);
3. ambulance service to or from a Hospital;
4. laboratory tests;
5. radiological procedures;
6. anesthetics and the administration of anesthetics;
7. blood, blood products and artificial blood products, and the transfusion thereof;
8. physical therapy and occupational therapy;
9. rental of Durable Medical Equipment;
10. artificial limbs, artificial eyes or other prosthetic appliances; or
11. medicines or drugs administered by a Physician or that can be obtained only with a Physician's written prescription
12. plastics surgery limited to the face.

Coverage is considered Primary.

#### **Exclusions**

- Repair or replacement of existing artificial limbs or prosthetic appliances
- Repair or replacement of dentures, bridges, dental implants or other dental appliances.

- Glasses and contact lenses
- Hearing aids
- Personal comfort hospital charges such as telephone and television rental.

#### **Definitions**

**Ambulatory Medical Center** - A licensed facility providing ambulatory surgical medical treatment, other than a Hospital, clinic or Physician's office.

**Hospital** - A facility which: (1) is operated according to law for the care and treatment of injured and sick persons; (2) has organized facilities for diagnosis and surgery on its premises or in its facilities available to it on a prearranged basis; (3) has 24-hour nursing service by registered (R.N.) and (4) is supervised by one or more Physicians. "Hospital" does not include: (1) a nursing convalescent, or geriatrics unit of a Hospital when a patient is confined mainly to receive nursing care; or (2) a facility which is mainly a rest home, nursing home, convalescent home or home for the aged.

**Insured Person** - The class(es) of person(s) as shown on the Application, when they are covered under this Policy.

**Physician** - A licensed practitioner of the healing arts acting within the scope of his license to treat the injury that causes the loss for which claim is made.

**Usual and Reasonable Expense** - An expense which: (1) is charged for treatment, supplies or medical services medically necessary to treat the Insured Person's condition; and (2) does not exceed the usual level of charges made for similar treatment, supplies or medical services in the locality where the expense is incurred; and (3) does not include expenses that would not have been incurred if no insurance had existed.

#### **General Exclusions**

- suicide or any attempt at suicide or intentionally self-inflicted injury or any attempt at intentionally self-inflicted injury.
- sickness, disease or infections of any kind; except bacterial infections due to an accidental cut or wound, botulism or ptomaine poisoning.
- the Insured's commission of or attempt to commit a felony.
- declared or undeclared war, or any act of declared or undeclared war.
- participation in any team sport or any other athletic activity, except participation in a Covered Activity.
- full-time active duty in the armed forces, National Guard or organized reserve corps of any country or international authority.

- travel or flight in or on (including getting in or out of, or on or off of) any vehicle used for aerial navigation, if the Insured is:
  - a. riding as a passenger in any aircraft not licensed for the transportation of passengers for hire.
  - b. performing, learning to perform or instructing others to perform as a pilot or crew member of any aircraft.
- any condition for which the Insured is entitled to benefits under any Workers' Compensation Act or similar law.
- the insured being legally under the influence of any narcotics or intoxicants as defined by state law, unless administered on the advice of a Physician.
- the Insured being under the influence of drugs or intoxicants, unless taken under the advice of a Physician.

## **"On-Track" Accident Coverage**

### **Definitions**

#### **General**

**Covered Activities** - Subject to all other terms of the policy, coverage for injury to the Insured is only during a **Covered Event** on the premises of a **Race Track Facility** and arising in the course of his/her employment as a licensed **Jockey**. No coverage will be provided for injuries arising out of special events, entertainment, demonstrations and exhibitions not otherwise related to the **Covered Event** unless specifically agreed to in writing in advance of such activities.

**Jockey** - means an individual who is duly licensed as a jockey or apprentice jockey by the appropriate authorities in one or more states of the United States and is either: (a) an active member of Jockeys' Guild, Inc.; or (b) is not a member of Jockeys' Guild, Inc., but satisfies one of the following conditions:

1. has met the requirements for becoming and remaining an active member of Jockeys' Guild, Inc., or
2. has sustained an injury in an **Official Race**, or
3. has ridden (i) in one or more **Official Races** during the seven days immediately prior to an injury or (ii) in five or more **Official Races** in the 60 days immediately prior to an injury; or
4. could not meet the requirements for becoming and remaining an active member of Jockeys' Guild, Inc., because of previous injuries or sickness, but had derived 50% or more of his earned income during any one of the three calendar years immediately prior to such injury from **Earnings in Official Races**.

**Eligible Racing Association** - means a **Racing Association** which has been licensed or authorized to conduct racing on one or more **Racing Days** by the appropriate authorities in the state where such races are to be conducted.

**Racing Association** - means any corporation or association organized and existing in good standing in the United States for the purpose of conducting flat or steeplechase races of thoroughbred, quarter, Appaloosa, Arabian or other like horses or any state agency authorized to conduct such races, including those organizations designated jockey clubs, clubs, state fairs, fairs, agricultural societies, or expositions, whether or not the same be organized for profit.

**Race Track Facility** - means the entire premises designated on an Application for Insurance and under the control of a **Racing Association** at the time of covered injury, whether such premises are owned, leased, occupied by

permission, or used at sufferance by said **Racing Association**, including all race courses, paddocks, backstretch areas, exercise facilities, stables, barns, fields, access roads and other related facilities.

**Official Race** – means a race of thoroughbred, quarter Appaloosa, Arabian or other like horses conducted either inside or outside the United States upon which pari-mutuel wagering was permitted with the approval of the authority governing the conduct of such races.

**Covered Event** – means Meets including **Racing Days**, **Dark Days**, and **Stabling and Training Days** for which an insurance premium has been paid in accordance with and subject to the terms of the policy.

**Meet(s)** - means a period of time during which a series of **Racing Days** selected and/or scheduled by the state's governing racing commission and You may be held.

**Racing Days** – means a date during a Meet on which flat or steeplechase racing is permitted on the Race Track Facility.

**Dark Days** – means those days during a **Meet** when no flat or steeplechase racing is conducted.

**Stabling and Training Days** – means days not within the **Meet** during which the **Race Track Facilities** of the **Racing Association** are open for stabling, training and other non-**Racing Day** purposes.



\* \* \* Transmission Result Report (MemoryTX) (Feb. 18, 2005 6:34PM) \* \* \*

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## FAX COVER SHEET

TO: Rose Mary Williams / Sandra Barker  
 FAX: 509-387-8206  
 FROM: John Patrick Lund  
 DIRECT LINE EMAIL: jplund@memoranda.com  
 RE: Dr. Lund medical papers

## MESSAGE:

I usually work with email... sorry for  
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 Call me on my cell at 415-314-7477  
 anytime to discuss. It will be on the  
 entire weekend.

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## Jockey abuse: Low pay, high risk, weak union

**Jockeys face great risks, poor pay, and uphill battle to improve condition as their battered union tries to recover from recent woes.**

A weekly column by Chris Isidore, CNNMoney.com senior writer  
May 4, 2006: 3:48 PM EDT

NEW YORK (CNNMoney.com) - As you watch the Kentucky Derby this Saturday, consider this ... most of the guys hanging by their fingers and toes to those charging 40-mph thoroughbreds are going to walk away with only \$50 for their risk.

And that's just because it's a high-profile race. Usually they'd walk away with less than \$25.

And of course, there's a good chance. 1 in 20 for the average jockey, they'll get injured. Or worse. Two jockeys have died since the last Kentucky Derby ... one of those only 16-years old.

Add to the mix that many jockeys, Kentucky Derby riders for instance, aren't covered by state workers' compensation laws.

Yup. No group of athletes needs a strong union more than jockeys. But no union in sports has had more trouble recently than the Jockeys' Guild.

### Congressional hearings

Their union was the subject of congressional investigations last year, which led to revelations about its leadership's financial compensation at that time and the eventual ouster of its two top officers.

The union has since sued former CEO L. Wayne Gertmenian and former Chief Operating Officer Albert Fiss to try to recover money they were paid out of the Guild's meager resources. The union was left with about \$6,000 in the bank after the two were forced from office, according to current Guild leadership. Another Congressional hearing is scheduled for next Tuesday.

Gertmenian, who was eager to talk to me about the plight of jockeys a year ago, was not available for comment for this column.

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The new leadership, led by interim national manager Darrell Haire, has won some improvements, including getting most tracks to agree to provide between \$500,000 to \$1 million in insurance to cover medical bills of jockeys seriously injured in accidents on the track.

"The scandal hurt us, no doubt about it," said Haire. "The [congressional] hearing was just a fiasco; it was so embarrassing. But the board we have now is very well respected. I think we're getting our integrity back. We had to raise dues and we didn't see a drop off in membership."

Still the Guild has an uphill battle just to win basics for its membership. Only four states - New York, New Jersey, Maryland and California - give jockeys the basic protection of workers' compensation coverage that the overwhelming majority of American workers take for granted and get at no cost at far less dangerous jobs.

#### **A very dangerous job**

Workers' compensation is an important improvement over insurance because it provides living expenses and lifetime medical care for those who are permanently disabled as well as death benefits for survivors of those who are killed.

Riders in this year's Kentucky Derby do not have workers comp coverage, although riders in the next two Triple Crown races do. The effort to pass workers compensation coverage in Kentucky failed earlier this year amid demands from critics of the legislation that jockeys help pay for the coverage out of their relatively meager incomes.

The Guild's proposal that the coverage come out of the winnings of race fans' wagers - about 10 cents out of every \$100 in winnings - was rejected.

About 60 living jockeys have been permanently disabled from on-track accidents, and about two a year are killed. Since last year's Kentucky Derby, Josh Radosevich, a 16-year old jockey who had just gotten his license, and Michel Lapensee, a 58-year old jockey with about four decades experience, died from such accidents.

Another jockey on temporary disability committed suicide and two others died from medical problems brought on by their near desperate efforts to keep their weight low.

Workers' comp would help care for jockeys who are temporarily disabled, about 60 to 80 riders a year. Riders with 100 or more rides a year face a better than one-in-twenty chance of serious injury during a year, an injury rate that would make most Americans think twice about before working at much better paid jobs.

About \$15 billion a year is wagered on racing and while 80 percent of that goes to the winning betters, those wagers produce about \$1 billion a year for the tracks and nearly that much for horse owners and trainers.

#### **Meager pay**

While the jockeys whose horses finish in the money in the Kentucky Derby Saturday will see a nice pay day, most of the jockeys in the sports' premier race will get only \$100 for what is known as a "mount fee."

Out of that, they have to pay 25 to 30 percent to their agents, and another 5 to 10 percent to their valet who helps them with their equipment. Those payments, as well as insurance and union dues, leave most riders with only about \$50 of their Derby mount fee, not enough to buy a ticket for Churchill Downs this Saturday.

And of course that's what the jockeys get for the Derby. Mount fees for a typical race are only \$35 to \$55, leaving the jockeys between \$12 to \$25 per race after making the payments. Those mount fees are paid by the horse owners.

"Nobody is telling the jockey they have to be a rider," said Keith Chamblin, senior vice president of the National Thoroughbred Racing Association, the group that represents horse owners, trainers, tracks and breeders but not jockeys. "Like many of other professions, there are a number of jockeys who make a decent living, then there are those at a lower level as well. The horse owners would tell you they spend \$2 billion chasing \$1 billion in purse money. If you're going to pay the jockeys and trainers more, where would the money come from?"

There are some well-paid jockeys. John Velazquez, who is now chairman of the Guild's board of directors, was the top earner last year, receiving a share of purses worth about \$2.1 million. Of course he paid out about a third of those

h c e h c c b c c c c e c e

purses to agents and valets.

And he'll miss this year's Derby, and as much as five months of racing and earnings, with a broken shoulder blade and cracked ribs suffered when his horse fractured a leg during a race two weeks ago.

The riders who live below the poverty line are far more common than those who pull down six-figure or better salaries. The top 100 jockeys received about 57 percent of the purse money that went to riders last year, leaving the typical pay for other active jockeys to be about \$35,000 to \$40,000 for a job that requires frequent travel and other expenses.

Haire was a jockey for 15 years. He said that while exercise riders and those who ride the ponies that take the races horses to the gate can make more than the jockeys, most jockeys choose the lower pay and greater danger for the excitement.

"There's nothing like riding a race. You can't describe what it's like to be out there on an animal going 40 mph racing against each other," he said.

That's no excuse for the jockeys getting such meager pay in such a lucrative industry. But given the sports' history, it's a real long shot that even the new Guild leadership will be able to flex the muscle necessary to significantly improve pay and benefits for riders any time soon.

For more about the business of sports, click here. ■

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MS. WILLIAMS. Thank you.

MR. WHITFIELD. Thank you very much.

[Whereupon, at 4:02 p.m., the subcommittee was adjourned.]

